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BEFORE & AFTER

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Introduction

The late unhappy disturbances in the Punjab owe their origin, as is now well known, ostensibly to the Rowlatt Act, or the Black act as it is more popularly called in this country, but the root-cause lies very deep in the system and procedure of Government on one side and popular institutions on the other. The ground of quarrel was this : Government said that they must have repressive powers to enable them to carry on the government ; Indian leaders said that that was an insult to India which she didnot merit after what she had done in the late War ; that India had had enough of repression and the conclusion of peace was looked forward for ameliorating measures and not unnecessary repression. Had the issue been really so simple the solution would have been soon found, but there was in reality much behind the open protestations on both sides. On one side victory gave scope for the vent of an arrogant superiority long nurtured by tradition but kept in needy restraint before the German menace, and on the other the final triumph of a good cause against the bad, as demonstrated in the late war, heartened even the most timid to assert his due even unto bitter struggle and suffering.

Indian political history in the first half of this decade and back is a history of anarchism, that of the second, the history of repression. Anarchism in India in recent years has been the effect of derelict aspirations following an ideal of nationhood evolved out of economic and racial cornering by the world at large. As time wears on the underlying idea is spreading over the masses and percolating through the classes. Repression has been the result of want of agility in a "too wooden, too iron, too antediluvian" government to take the lead and anticipate the next move in a self-conscious India. An alien government steadily grown to power by force of arms deals with the people as if they are so many masses of human flesh and can not catch the spirit which humanises them. Power, especially when it is well-established, curiously enough fails to appreciate generosity and do justice until it spends itself. It is impossible to dethrone it unless it has to lie down perforce through sheer exhaustion. Thus the Kaiser was never conquered ; he spent himself. Perhaps this explains why in India acts of justice and generosity never come unless in the heels of dire calamity. In Bengal the Curzonian policy of *divide et impera*

lashed up the people into a state of frenzy, and this was met by that type of ruthlessness which is better known as Fullerism in East Bengal. It was after the full force of repression was spent upon dismembered Bengal that the cruel wrong was righted and the Royal annulment of the partition brought in its train many generous acts of His Majesty towards his Indian subjects. In the events of the Punjab which is engaging public attention now many months we see the same tale retold, though now with a vehemence and fleetness reminiscent of Prussianism and its collapse. The following pages give a cursory view of the events which led up to the Rowlatt Act and the agitation which it brought forth ending with the lamentable events of the Punjab of last April.

The year 1916 is memorable in the history of Indian Politics. That year saw the union of the Indian National Congress and the Muslim league, the two great political organisations of the country voicing the inchoate political consciousness of the people. The joint sessions of the Congress and the League held at Lucknow put forth identical demands for a constitution of India based partly on the Dominion principle of Self-Government. About this time Europe was tasting the "Mailed fist" of the Kaiser and the British Empire was perilously threatened. The Dominions rallied to the Mother Country, and India rallied to Britain no less. At one stage it was only the Indian army which saved the British lines by taking the German thrust upon itself. India's loyal response to the Empire's call aroused a grateful echo in the hearts of the British Public and British Ministers solemnly pledged the Empire's gratitude. All this mighty effort on the part of the Empire required some catch word and platitudes to keep it going ; and such words as 'self-determination', 'right is might', 'inviolability of small nations', 'scrap of paper', etc, came to be freely bandied. Questions of readjustment often arose,—some relating to post war schemes to suit a better world, and some to settle the relationship between the Dominions and Britain. Indian political thought naturally bent inwards and there came to be a searching for India's position in the new world-adjustment. In this atmosphere was conceived the Indian Home Rule Movement which spread very fast in Madras under Mrs. Besant, and in Bombay and the Central Provinces under Lokmanya Tilak. From all sides public consciousness as to India's legitimate position in the Empire was rising, and it was quite apparent that this rising tide had somehow to be met by those in charge of India's destiny. Towards the close of 1916 nineteen Indian members of the Viceroy's legislative Council formulated a demand on behalf of India of a definite constitution based on the idea of Dominion Self-Government. This is now famous as the "Memo. of the Nineteen." The Congress and the League were at the back and so too the Home Rule movement.

Immediately after the Lucknow *entente* of the Congress and the League, the Home Rulers pressed their campaign so vigorously that in a short time the whole country was organised into formidable camps of propaganda. More and more the public came to know how the Allies were avowedly fighting in defence of the rights of small and weak nations, how the world was going to accept the creed of self-determination for all nations, big or small, how democracy and government by popular opinion was to be adopted every where; and people querried "where is India?" The humiliating treatment of Indians in the British Colonies, specially in the Cape and Canada, were brought in sad contrast to India's huge and devoted contribution to the war.

In the turmoil of war and the ever-threatening German invasion government lost their ba ance. There was disorganisation on all sides, there was bungling in every department, and the blunt Briton went about his business as tactlessly as ever. The high tide of Indian aspirations met not vents for their partial realisation but infructuous and illtimed advise, rebuke, and repression. Early in 1917 Government published the long expected Report of the Public Services Commission. From the Indian view point it was a miserable and miserly document not worth a hundredth part of the time and money spent on it. Mr (now Sir) Justice Abdur Rahim who sat on the commission wrote a very lengthy Note of Dissent setting out in the main all that Indian polity had been demanding for the last few years. About this time came to light the notorious Mesopotamean muddle. The Indian Expeditionary force in Mesopotamia was under the Govt. of India, but such was the confusion into which that affair was kept that the whole army broke down and had to retire before the enemy. A Commission was duly appointed and it scathingly attacked the Govt. of India. The matter was the subject of heated debate in the House of Commons. It was in this debate that Mr. Montagu, then an unofficial M. P. delivered his historic indictment of the Govt of India: "The Govt. of India is too wooden, too iron, too inelastic, too antediluvian, to be of any use for modern purposes." In that Report Commander Wedgwood, M. P. who was a member of the Commission, strongly advocated a complete Home Rule for India as the only way to stop the unpardonable mismanagement of important affairs of State. Needless to say the Report was a triumph to Indian Home Rulers and vindicated their propaganda in a very convincing manner.

While the Home Rule propaganda was spreading and getting accession of strength from within and outside, riots took place in Behar in the indigo districts. The European planters had for some time past been levying oppressive taxes on the indigo-cultivators who in despair adopted passive resistance on the advice of Mahatma Gandhi. Gandhi himself went to Champaran

to enquire into the grievances of the ryots but the European Magistrate of the place imprisoned him for reasons best known to himself. This act of flagrant high-handedness at once roused the whole country and there was such an agitation over the affair that the Behar Govt. had to accommodate the Mahatma, appoint a committee of enquiry and ameliorate the conditions of the ryots. Closely following upon this agitation was one raised by an intemperate, sordid and undignified attack on Indian Morals by the European Principal of the Presidency College, Calcutta, in a speech delivered to his students on a social function.

While there was no one in authority in India to grasp the situation and lead the growing storm into a worthy channel the reactionary and highly unsympathetic Governments of Madras and Punjab delivered in the middle of the year 1917 ill-conceived attacks on the Home Rule Movement. This gave rise to a suspicion that Government was about to embark upon a campaign of repression with the object of stampeding all political life. Nor was the apprehension altogether unfounded. For, on May 14th 1917 Lord Pentland, Governor of Madras, once more warned political agitators and a month later, on June 10th, he interned Mrs. Besant with her coadjutors, Messrs Arundale and Wadia.

This was quite an unexpected shock, and the effect, far from being what was desired by the government, was to stiffen the resolve of the Home Rulers to fight out once for all the question whether self-government was a legitimate aspiration for India or not. Unfortunately for Government Mrs. Besant had a following and an influence far beyond official ken, and such a storm was raised over this act (not only in India but also in England and America) that soon all shades of political opinion in the country united to make a solid stand against this policy of government. Sir Subramanya Aiyar, the venerable ex-Chief-Justice of Madras, who had since joined the Home Rule movement as its president, wrote to President Wilson of America, complaining bitterly of the system of Government in India where the people are "held in chains, forbidden to express publicly our desire for the ideals presented in your famous war message", where "officials of an alien nation, speaking a foreign tongue, force their will upon us; they sap us of our wealth, refuse us education, impose crushing taxes without our consent, cast thousands of our people into prison for uttering patriotic sentiments." As a recent instance of misrule the internment of Mrs. Besant, without charges and without trial, shortly after "printing and circulating your war message" was mentioned, and the letter concluded with an appeal that he would "so completely convert England to your ideals of world liberation" that India may freely lend assistance in the war.

This letter was transmitted to President Wilson in July '17 through Mr. and Mrs Henry Hotchner, American tourists in India, was published in America about September next, and created a world sensation.

With such a tension in the political atmosphere is to be coupled the most wide-spread and uncompromising internment policy of the Government In the midst of a great War Government could not with a clear conscience permit the raising of popular feeling on abstruse political dogmas. But it was helpless before the cascade of events which came from unexpected quarters to prove its utter obesity with matters quite incompatible with a new world created by the war. Up and down India feeling ran high for the great number of young educated Indians interned under the the Defence of India Act, and this gradually came more and more to stand in the way of effective recruiting campaign of the Government.

By this time the agitation over the Mesopotamian Campaign in England had led Mr Chamberlain, the Secy of State, to resign his office and Mr. Montagu, who but a month ago had castigated the Government of India, became Secy of State for India. Soon after he made the famous Declaration of 20th Aug. 1917 enunciating the policy of His Majesty's Government with regard to India. The result of this was quickly seen in the shape of cleavages in the heretofore solid phalanx of Indian Nationalists. It satisfied a small section of the people who formed themselves into a Moderate party on Sept 15th. The Government of India acting on the advice of the Secy. of State removed the restrictions placed upon Mrs. Besant and her lieutenants by Lord Pentland of Madras.

While the political atmosphere of India was gradually clearing from circumstances arising out of the war, over which neither the Government nor the people had any control, the extensive internment policy of the Government was slowly driving it to an inevitable course of action. With the war in hand, with the rising tide of popular discontent over the internments obstructing recuitment, with the persistent moderate demand for a high and trustworthy committee to enquire into internments and into the dark and shadowy activities of the C. I. D., Government had no other course but to appoint the now famous Rowlatt Committee in the hope of satisfying public opinion that the internments were really backed by a sufficiency of evidence. From time to time both the Government of India and the Government of Bengal had been urging the fullest assurance that the internments were made after the most careful consideration by the Executive councils and that orders were passed after the most searching enquiries. These, however, failed to

shake popular belief founded on the first-hand knowledge of the people of the character and propensities of their own countrymen serving in the police. The Government of India at last decided in December 1917 to appoint an authoritative committee to investigate in the fullest manner possible all the evidence bearing upon the Sedition Movement in India. The Committee appointed included Mr. Justice Rowlatt, a Judge of the Supreme Court of Judicature in England, as president, the Chief Justice of Bombay, a puisne Judge from Madras, a Bengali lawyer and an I. C. S. The Committee was directed to (1) investigate and report on the nature and extent of the criminal conspiracies connected with the revolutionary movement in India, and (2) to examine and consider the difficulties that had arisen in dealing with such conspiracies and to advise as to the Legislation if any necessary to enable Government to deal effectively with them.

For a time the Moderates just crystallising were jubilant and self-congratulating on their achievement. They plumed themselves on having induced Government to bend to their wishes in appointing the committee. The Nationalist party, however, always suspicious of the motive of Government, disseminated the idea that the Committee was merely a move to justify the internments and to find an excuse for perpetuating in some permanent form the Defence of India Act to enable the officials to continue to exercise the extensive arbitrary and emergency powers acquired during the war. This suspicion came to be confirmed when the Committee, the personnel of which was strongly criticised as pro-Govt and unreliable, began to work behind the public, *in camera*. It held its sittings in Calcutta, except only a very few in Lahore, examined only a few witnesses whose names and antecedents were not disclosed, presumably, it was alleged, on the recommendations of the police, and had nothing to go upon but the unattested and un cross-examined statements and reports prepared by the Secret Service and officials. The Moderates also had their misgivings as to the result of such an enquiry. They could not however fall foul of a thing of their own seeking and had an altogether uneasy conscience not knowing their own mind, and seemed to think better of the coming Reforms on which they had pinned their great faith.

After her release Mrs. Besant turned her boundless enthusiasm and resources towards the less fortunate internees. Of these the case of Messrs. Muhamad Ali and Saukat Ali were strongly agitating public mind and embittering Moslem feeling. Govt. however proved inexorable. The cruel treatment of other internees brought to light by Mrs. Besant served further to accentuate bitterness against the Govt, especially of its C. I. D. branch, and by the end of December 1917 the one figure which commanded the love and esteem of whole

India was that of Mrs. Besant. By an unprecedented and overwhelming majority she was returned President of the National Congress at Calcutta and its deliberation showed that the majority was determined to disseminate extreme political views. Mr. Montagu, the Sec. of State, who had some time before come to India in connection with the Declaration of 20th Aug. was going to close his interviews by the middle of January. But more than the Montagu mission the internments continued to agitate popular mind throughout the length and breadth of the country.

Cases of suicide, cases of insanity, of torture, of hunger-strike, of death from pthisis, and similar inhumanities, amongst the internees came to light, and to crown all, the harrowing tales of the Sindhubalas in the February following struck the already striken people of Bengal dumb with amazement. (For the political history of this period see the Indian Annual Register 1919). For once all shades of opinion coalesced in condemnation of such inequities, not excluding most Anglo-Indians, and very weighty committees for protecting the Civil Rights of the King Emperor's subjects were formed in Bengal and Madras.

On April 15 th 1918 the Rowlatt Committee submitted its report and the Government of India published it with some elisions soon after the Montagu-Chelmsford Report. As expected the report was a complete justification of the Government. It proved that the ordinary provisions of the law were entirely unsuitable for a situation such as Government had been called upon to face in India at the beginning of the war. It recommended the enactment of special measures to deal with the situation when the Defence of India Act ceased to operate. As with all restrictive committees sitting in secret, so with this committee, the situation which it found was that which they were made to see and on that view it did what was most natural under the circumstances. It recommended (1) punitive measures, viz, those meant to secure the conviction of offenders and (2) preventive measures intended to check the spread of conspiracy and the commission of crime.

While Indians resented the Rowlatt recommendations and felt aggrieved over Government attitude, the Anglo-Indians were hilarous with joy and made political capital of the matter as an argument against giving any generous reforms to the children of the soil. The findings were made the basis of extensive propaganda work both in England and in India to discredit the Secretary of State for inaugurating a scheme of Reforms for India and to "whittle down" the proposal made in the Montagu-Chelmsford Report. The systematic campaign of Lord Sydenham and coterie, backed by the Anglo-Indian associations of India, trying with their enormous resources to prejudice Britons, especially Members of Parliament, against Indian

Reforms, alarmed all sections of the people, and exasperated the educated Indians for being thus most systematically and meanly abused in the English Press.

The Rowlatt Report was subsequently backed by the issue of another report containing the results of similar investigations conducted in the dark by a committee consisting of Mr. Justice Beachcroft, a Calcutta judge, and Sir Narayan Chandravarkar, the eminent ex-judge of Bombay. This Committee was specially appointed to enquire into the cases of the Bengal Internees. It vindicated the policy of the Government from materials placed at its disposal by officials and decided that in 800 out of 806 cases there was every ground for detention, and the remaining persons were discharged, "not because their innocence was established, but because the orders against them were not supported by adequate evidence."

The findings of the Rowlatt Committee were bitterly resented by Indians of all shades of opinion. The common ground of complaint was that it was one-sided, and the strongest objection was taken to a callous statement about the disbanded Indian soldiers, "of whom there will be large numbers, especially in the Punjab, and among whom it may be possible to stir up discontent." Gracious sentiment for services gloriously rendered !

On September 23rd 1918, the Hon'ble Mr. Khaparde moved a resolution in the Imperial Council, Simla, that "This Council recommends to the Governor-General in Council that the consideration and disposal of the Rowlatt report be kept in abeyance, and that a thorough and searching enquiry be under taken by a mixed Committee of an equal number of officials and non-official Indians into the working of the Criminal Investigation Department, including the Central Intelligence Department."

In moving the resolution Mr. Khaparde's object was to stay proceedings on the Rowlatt Report and also to have a public enquiry into the papers and reports of the Secret Service upon which the Rowlatt Report was based but which Govt. refused to make public. His complaint was that the enquiry of the committee was conducted *in camera*, in secret, and as such, whatever the eminence or impartiality of the judges, human nature being what it is, their findings, based on the one-sided evidence of the officials, can never command public confidence.

In the discussion that followed the official members, chiefly Sir Michael O'Dowyer and Sir W. Vincent, greatly warmed up against the motion and, as usual, spoke eloquently on the services rendered by the Secret service. Without it the machinery of Government, said they, would have been greatly damaged. But none could meet the mover's arguments. And while the officials

were angry because their pet child the Secret Service, was proposed to be enquired into, the attitude of the most important non-official members, such as Messrs. Sastri, Bannerjea, and Sapru—leaders of the Moderate party—was non-committal. They were heart and soul with the Constitutional Reforms for which they were straining every nerve to put forth the greatest fighting strength, and did not care much about the Rowlatt business. Perhaps they did not also want to irritate the officials who, it was well known, were very keen on the Rowlatt Report. The result was that save one member (the Hon. B. D. Sukul) nobody supported and voted with the mover and the resolution was defeated by 46 to 2 !

PUNJAB BEFORE 1918.

Prior to 1905 the Punjab was as quiet and somnolescent as any Bureaucracy could wish. Public life began to stir first in 1905 amongst the educated classes over the question of the Bengal Partition—that piece of Curzonian folly of outraging Nationality which inflamed nationalist sentiment throughout India in one leap. Shortly after the Punjab Govt. passed the Colonization bill depriving at one stroke the long vested interests of Indian settlers in areas once desolate but tranformed into the most beautiful spot in the province by their own industry. A strong agitation followed and this was suppressed by force ; the editor of the "Punjabee," the Indian paper which advocated the cause of the wretched settlers, was convicted and sent to jail. In 1907 riots occured in Lahore and Rawalpindi, people came in conflict with the police and were put down with a force stronger than the occasion required. Without any amelioration a campaign of repression followed which made no difference between high and low, neither between legitimate and illegitimate grievance. Any thing short of fawning, adulation and sycophancy was read as sedition. Prominent men, leaders of the public, whose only fault was a worthy moral courage, Lala Hansraj Sawhney, Lajpat Rai, and Ajit Singh were deported. And for a time repression triumphed and justified itself by killing all political agitation on the surface during the years 1910-13. Such was Punjab as handed over to Sir Michael O' Dowyer by Sir Denzil Ibbetson. In 1914 occurred the sad Komagatu Maru affair and the Budge Budge shooting. Several hundreds of Punjabees, rendered homeless and hopeless by the colonization bill, were obliged to leave their mother country and embarked for Canada, lured by the roseate prospect of abundant wages and work. They were however not allowed to land by the Canadian Govt. who have their own laws prohibiting Asiatic immigrants. The Punjabees were packed back to India. They were coming with despair in their hearts and a careless spirit of revolt born of that. Reaching India they were not allowed to land ; most of them were suspects in the eyes of the

Govt, who had in their wisdom in the meantime passed the Ingress into India Ordinance, restricting the liberty of any person entering India. They landed as prisoners and were kept in camp at Budge Budge, near Calcutta, under armed guard in readiness for being taken over to their Province and interned there. Exasperated by continued ill treatment, tortured all round by adverse circumstances created as popularly alleged by the Punjab Govt., which however, to say the least, had done not a particle of good towards their own subjects, these sturdy men of the Punjab—the finest specimens of the Aryan race—lost their head, broke loose into revolt, and the unfortunate Budge Budge riot was the result.

"The "Komagata Maru" episodes marked the recrudescence of unrest in the Punjab and afforded a pretext to Sir Michael O'dowyer to ask for more "effective power" from the unwilling Government of Lord Hardinge. During 1914 and the early part of 1915 insistent demands continued to be made for a "carte blanche" to deal with the situation and a draft ordinance of a drastic character was submitted to the Government of India for approval and promulgation. At last Lord Hardinge was compelled to yield and the Defence of India Act which substantially embodied the provisions of this draft ordinance was hurriedly passed through the Indian Council. How this "essential war measure" has been used, not only in the Punjab but other provinces as well, to deal with matters wholly unconnected with the war, we all know. Sir Michael O' Dowyer was not slow to utilise it and soon after reported its "salutary effect" to the Government of India.

"The years 1915 to 1917 were occupied with various conspiracy trials by special tribunals constituted under the Defence of India Act. The vernacular press was ruthlessly suppressed and hundreds of persons were interned under the Defence of India Act or the Ingress Ordinance. It was during this period that Lokamanya Tilak and Srijut Bepin Chandra Pal were prohibited from entering the province lest they should introduce the virus of Home Rule here." (From Congress Presidential Address, Amritsar, by Pt. M. Nehru).

Upon the Rowlatt Bill no better commentary from the Indian view-point can be presented than that of the venerable jurist Sir Narayan Chandravarkar of Bombay, which is reproduced with humble acknowledgments in the following pages.

Sir Narayan Chandravarkar on the Rowlatt Bills.

Sir Narayan Chandravarkar writing to the *Times of India*, Feb. 1919, on the Rowlatt Bills, says :—

The case in support of these Bills, so far as I can conceive it, is threefold and may be stated as follows.—

1. It is true that the powers under the Defence of India Act were taken by the Government from the Legislature as an emergency measure, limited to the period of the war and for some months after the Declaration of Peace ; but the enforcement of both the punitive and preventive provisions of the Act especially, the preventive, has proved that such a law is the only effective remedy for successfully coping with the secret and terrorising crime of revolutionary conspiracies. That is the first necessity.

2. There are some hundreds of .olutionary interned under these provisions. These, judging from the Rowlatt Committee's Report, fall under one or other of two heads :—(1) those who have helped Government with information which has enabled us to unravel the revolutionary movement, track its course and detect its members, and (2) those whom internment has not made penitent and who are therefore still dangerous If both these classes are let off, as they must be on the expiry of the Defence of India Act, the men of the first class will be exposed to assassination at the hands of the second class and others inclined to revolutionary crime ; and the men of the second class will continue their career of that crimes. Hence the necessity of a law on the lines of the Defence of India Act. That is the second necessity.

3. Anarchism however much limited to a small number, as compared with the vast mass of people, has come to stay in India, judging from the experience of these twelve years or so; and it is absolutely necessary in the interests of peace and order that the Legislature should arm the Executive with exceptional powers to deal with this exceptional form of crime.

I have endeavoured to put the case for the Bills as strongly as it can be put with due regard to the exigencies of administration in the interests of peace and of order. And it is from the point of view of these interests that the merits of these Bills must be considered. I do not propose here to consider those merits on the basis of the principle of liberty, because high judicial authority in England has held that such suffering as there is in the internment of a person under the Defence of Realm Act, (which is akin to our Defence of India Act) without a trial in the criminal court is inflicted for something much more important than his liberty or convenience, namely, for securing the public safety and defence of the realm."

That safety and defence being then the paramount consideration, in judging the merits of these Bills I recognise fully the force of the first three points which I have set out above as making out a case for the kind of

legislation, proposed in the said Bills, with reference to their preventive provisions and the remedy of internment.

But that does not, in my humble opinion, exhaust the case for the Bills; the crucial and preliminary point raised by these bills is, should the Legislature sanction the law proposed by them in the present state of its constitution and Indian feeling?

Were there no remedy or power in any member of India's present constitution as effective as the Defence of India Act, that crucial and perliminary question should inevitable lead to an affirmative answer. But there is a remedy in the power given to the Governor General by Section 23 of the Indian Council's Act enacted by Parliament in cases of emergency, to make and promulgate from time to time ordinances for the "peace and good Government" of His Majesty's Indian territories.

The responsibility of making laws for the peace and good Government of the country no doubt rests on the Legislature. That is its peculiar function. The primary end of all laws is order; and they must have force behind them to compel obedience to them. That is where the anarchist and revolutionary makes his grievous mistake about Government. He thinks that because Government compels obedience to its laws by the use of force in the form of the Police and the Military, therefore all Government is physical force—the force of what he calls legalised violence and the negation of all soul. And so he concludes that he is justified in meeting that force by his own force and violence. That is the delusion shared by all the interned revolutionaries with whose cases. I have had to deal. And all anarchical literature that I have come across shows that it forms the creed of anarchism and revolutionaries. They do not know, and if they know, they do not believe in the constitutional principle and practice of Government that its laws to which obedience is compelled by the show of force in the form of the police and the military, rest ultimately on another force, the force of public opinion and sentiment. There must be, therefore, the force of that opinion and sentiment behind the law and its machinery which the Rowlatt Bills propose, to warrant their passage through the Legislative Council.

That brings me to the question—Is the force of public opinion and sentiment behind and at the back of these Bills? That public opinion and sentiment may be divided, for the rake of a clear understanding of the point, into two classes—one, the public opiuion and sentiment of the educated Indians, the class known as the intelligentia of India; the other, of the rest of the people known as the masses.

As to the opinion of the educated classes, I believe it is by now clear that as a whole, sinking all their political differences in other respects they have arrayed themselves against the Bills. And the best proof of it is the opposition of at least a majority of the Indian Members of the Imperial Legislative Council. The question is—Is the opposition reasonable? I venture to think it is, when the position occupied by those members is borne in mind. It is true that like all of us outside the Council and more as members of the Legislature they are bound to consult the interests of peace and good order and legislate accordingly. So they did when they assented to the passing of the Defence of India Act as an emergency and temporary measure in the time of war. But when in and for times of peace the same law is sought to be perpetuated they may well take their stand as follows:—

"The responsibility for administration is not yet ours. We are still outside the administration. We know and admit that there is revolutionary

conspiracy; but when we are asked to assent to a law of an exceptional character dealing with it and to empower the Executive to restrain a person's liberty on suspicion, we can assent to it only when we have the power of control over that Executive. The responsibility of peace and good Government rests primarily on the Government as it is at present constituted, and Parliment has given it through the Governor-General power to secure that by means of Ordinances."

But the Indian members in the Council being in a minority may be outvoted by the official majority. And if the official majority outvotes them and sanctions the Bill in their collective capacity as the Legislative Council, it may do so on one of two grounds, either because the proposed law is necessary as having behind it the force of public opinion and sentiment and thus fulfilling the essential condition of all law and constitutional Government or because though the law is not backed by public opinion, the official members feel convinced that such a law is needed. If the official majority sanction the law on the second of these two alternatives, they will fall in with the anarchist's view that law and Government are based on physical force and violence, not on public opinion, and unconsciously play into his hands. It would be doing injustice to the official majority to think that they may or will act on that anarchist's view. So it is the other alternative that should prevail—that this law has the support of public opinion; and it should prevail all the more because Legislative Councils according to theory if not in actual practice, are representative of that opinion.

And when I speak of public opinion I will eliminate from it the element of the opinion of the educated classes for the purpose of argument with a view to give the case for the Bills the benefit of every doubt. I will take public opinion to mean the opinion of the masses. In these days it may be urged it is not difficult to ascertain that opinion. The Indo-British Association affirms that it represents the opinion of the masses in India. We of the educated classes affirm that we represent that opinion. In the midst of this conflict, I will crave my readers' indulgence to appeal to my own personal and sober experience and knowledge as to the view which the masses take of the law of internments. I have been visiting Calcutta every winter the last four years. The last time I was there in June, July and August it was as a member of the Advisory Committee on the individual cases of the Bengal internees. During my previous visits it had puzzled me to find from all I saw that while there was disapproval of and disgust for revolutionary crimes—the murders and dacoities to which they led—there was at the same time sympathy for the internees as youths who had been unjustly dragged out of their homes and hearths and schools and clapped into confinement. What could be at the bottom of that more or less general sympathy? Was it sneaking sympathy with revolutionary crime because its object was to overthrow Government? I could not say, for I had no definite means of access to the heart of the average Bengali of the mass type until when I was engaged in my inquiry as a member of the Advisory Committee. I came across unofficially some of that type whose sons or other young relatives had been interned. I questioned them on the point which had puzzled me. One of the men whose son happened to be an internee and who candidly admitted to me his son's part in revolutionary conspiracy gave me an answer which I transcribe here as far in his own language as I remember it:—

"You ask us why people are not as indignant over the crimes of revolutionaries as they are ignorant over the internments of these youths. Why!

Crimes such as dacoities and murders and other offences have been taking place since God made the world and created man. We take that as the every day lot of life and there is nothing unusual however much we deplore it and curse the world. But the tearing away by the police of this young man from his family to-day, of that young man to-morrow and so on and interned for Heaven knows how long and we knew not why, the Police alone know—has that gone on since the world was made ? Who sees the dacoities or murders ? We don't and so we don't realise. But we see before our very eyes the youth taken away—and all neighbourhood sees it, and the sight and horror rankle in homes and villages." "But surely"—I asked—"the Sarkar must put down the crime ; and if it leads to sorrow and suffering, that is nothing compared to peace and order." The man replied :—"Yes, the Sarkar starts schools, we sent our boys far away to them from where we live, and when the boys go wrong, they go wrong because of the Sarkar, without our knowledge and our responsibility. And we have to suffer the misery in our homes caused by the tearing away of our youth from our families."

I will not enlarge on this beyond saying that, in my view, the remarks of the man made in his untutored way reflect the opinion of the masses as to internments. They have a dim idea that the interned youth have become rovolutionary because of the Sirkar's policy. And there they share the view of the educated classes. Further, when we closely analyse the character and proclivities of the youth forming 95 per cent. of the interned we find that they are youths a good many of whom are visionaries with a high personel standard of like, with ideas of sacrifice and service, though of perverse adventure. They are of the kind of British youth described by the late Donald Hankey. "A student in Arms" in his chapter on "Some who were lost and afterwards found." "They were lost but they were not poisonous. That was the trouble. They were incurably disreputable. We could not fit them in and somehow we felt that this inability of ours was a slur on society. We felt that there ought to be a place for them in the scheme of things." Then, at last the war came and they were got out. "And then." says Hankey, "they came to their own. . . . never was such a truimph and spirit over matter." Have our youth had such oppertunities ?

Our whole political and social policy is then at the root of this revolutionary crime. Let it be changed first as it is going to be changed and till then the Legislature as representing public opinion at least Indian public opinion which ought to count above all in the matter—should decline to pass any law on the lines of the Defence of India Act but should leave it to the Governor-General to exercise his power of Ordinance until the new policy of reform has taken concrete effect and India has felt assuredof the new life of progress vouchsafed to her.

From the Indian Social Reformer ; Bombay.

The views of Sir Narayan Chandravarkar, the Venerable Ex-Judge of Bombay, on the Rowlatt Legislation, so often alluded to in the Speeches in the Imperial Council at Delhi, appeared in *The Indian Social Reformer* of Bombay. The following is the full Text :—

"The unanimous opposition of the non-official Indian members of the Imperial Legislative Council to the Rowlatt Bills has had one effect in the right direction. Government, through the Home Member, who introduced the Bills into the Council and moved their reference to a Select Committee, have agreed to make the Bill dealing with revolutionary crime and internments a 'temporary' measure, which shall be enforceable only for a period of three years from the date of the expiry of the present Defence of India Act. So far one essential and crucial point affecting such legislation in its constitutional aspects has been gained. But important as this concession is to public opinion, by which we must mean Indian public opinion (for it is that which has the real claim to count in the matter), the concession is only partial and does not satisfy the conditions of the constitution to justify at least the Indian non-official members of the Council in resting satisfied with the concession made and according their support to the law as a temporary measure.

"What, then, are those conditions ?

"We shall best be able to comprehend them in all their clearness, if we start by taking up one point which the Hon'ble Sir George Lowndes, the Law Member of the Government of India, made in his speech in support of the Bills. To the argument, advanced by some of the non-official Indian members of the Council, that Government had already ample powers under two existing laws, namely (1) the Regulation of 1818, and (2) the Governor-General's power of making Ordinances from time to time for the peace and good Government of His Majesty's Indian territories under Section 23 of the Indian Council's Act of 1861, Sir George replied that those two laws were more drastic than the provisions contemplated in the Rowlatt Bills. They are no doubt drastic in the sense that the Regulation of 1818 empowers Government to deport a person without any trial or enquiry, judicial, quasi-judicial, or otherwise, and the Act of 1861 empowers the Governor-General to make Ordinances as he thinks fit, that is to say, it gives him 'absolute' discretion to frame such rules and machinery as he likes for the purpose of securing the internment of a person suspected of being a member of and implicated in a revolutionary conspiracy. This absolute discretion leaves the Governor-General full and unrestrained authority to make the Ordinances as mild or as drastic as he chooses. Instead of saying of the power that it is drastic, it is more true to the real nature of the power to affirm of it that it is plastic. There is nothing in the law or the power given by it to the

Governor-General to prevent him from framing his Ordinance on the same lines or with the same provisions as those of the Rowlatt Bills. Sir George Lowndes's point, therefore, does not meet the argument of his Indian colleagues in the Legislative Council. The question still remains—why should the Government seek the sanction of the Legislature to such a law, even for a limited period as a temporary measure, when it has already power in that behalf which it can exercise on its own authority and responsibility?

"The only intelligible reason that can be assigned is that Government does not think it expedient at this day and in these times of public opinion to use powers derived by it at a time when the Legislative Council had not come into existence and from authorities which did not and could not represent the public opinion of India. The Regulation of 1818 was a law enacted when the Executive Government in India was also the legislative power of the country. There were no Legislative Councils then, professing to represent, even in theory, the people, and as such legislation for the people. The Governor-General's power of Ordinance was delegated to him by Parliament in 1861 and Parliament does not mean the people of India. That being the character of those two laws, Government apparently does not wish to take upon itself the responsibility of using the powers it has under those laws but deems it expedient to place the responsibility upon the Legislative Council, which contains non-official members, representing Indian public opinion, and so to give the law thus passed the character of a measure enacted with the sympathy and support of that opinion. That was exactly the ground on which Lord Hardinge appealed and appealed successfully to the Indian members of the Council for their loyal support to the Bill which accordingly passed into the present Defence of India Act in March 1915 as a war measure. And the same ground a *fortiori* must furnish the test now.

"That being the case, the non-official members of the Legislative Council have to ask themselves this question before deciding whether they should support the measure, even though it is temporary: Is it right to take upon themselves as representatives in the Council of the people, the responsibility of such a measure in times of peace, and make themselves parties to a law arming the Executive with powers to restrain the liberty of a subject, so long as the people have under the present constitution of the Government no share in or control over the Executive, and that when the Executive has already powers in that behalf derived from the Regulation of 1818 and the power of Ordinance? In theory certainly, and in practice generally, all law, and particularly laws restraining liberty of the person, being a system of rules by which rights are maintained, form the expression of the general will of the people. The Indian members of the Council, at any rate, owe it to themselves and to the people, therefore, that they should refuse to support such an exceptional case of legislation unless the general will of the country, of which they are exponents, is behind them.

"That is the test for them; and they are entitled on the ground of recognised constitutional principles, to urge that the constitution of the Government should be popularised first in the direction of responsible Government before they can share the responsibility of such laws with the Executive in a time of peace.

"If, under the present system of Government and before Mr. Montagu's reforms take effect and admit the people into the administration and make them responsible for it, the Legislative Council pass the Rowlatt Bills, whether with the support of the Indian members or by an official majority without that support the Legislature will be passing the law under the guise of authority from public opinion, when that opinion is really opposed to the measure.

"The charge has been brought against the Indian members of the Council by some that those members have opposed the Bills because they fear that if they support the measures they will lose their popularity. The "Pioneer" makes much of that. Even assuming it is so, what does that argument come to? It means that these measures are unpopular. And if they are, the Indian members as representatives of the people will be going against public opinion should they support the measures. But apart from the pleasure of popularity or fear of unpopularity, it is wise to act upon the principle of healthy politics enunciated by Macaulay as follows :—

"As we cannot, without the risk of evil from which imagination recoils, employ physical force as a check on misgovernment, it is evidently our wisdom to keep all the constitutional checks on misgovernment in the highest state of efficiency, to watch with jealousy the first beginnings of encroachment and never to suffer irregularities, even when harmless in themselves, to pass unchallenged, lest they acquire the force of precedents."

"Therefore, popularise the Government first and then ask its popularised Legislature to take the responsibility of such exceptional legislation for the peace and good Government of the country, which till then rests exnecessitate primarily on the Executive,—"

The whole controversy over these Bills may be said now to have narrowed itself down to one simple question ; why should the Legislative Council take the responsibility of such an exceptional law even as a temporary measure, and arm the Executive with the power of interning any person whom it suspects as an anarchist without an open trial in the ordinary Courts of Justice according to the ordinary criminal procedure of those Courts, when both under the Regulation of 1818 and the Governor General's power given by Parliament of making Ordinances, that Executive has already ample powers in that behalf ?

It is contended by the supporters of the Rowlatt Bills that the Legislative Council should take the responsibility of passing them, because the Regulation and the Ordinance power are old-fashioned and will not do in these times when the people have grown accustomed to the idea and practice of Laws made by the Legislature for the time being, as the state organ of public opinion to meet the emergencies of the day.

That contention would be valid, if it were proposed to repeal the regulation of 1818 and the Section of the parliamentary Statute of 1861, which arms the Governor-General with the power of making Ordinances. There is no such proposal. The Regulation and the Ordinance power have from time to time been put into operation and are still alive. When to them are added, as is now proposed, fresh laws of the same kind by means of the Row-

lat Bills, we get to the familar complaint made from of old against such laws that "the special and unique occasion of one Government becoms the habit of its successors," and special laws intended for emergencies and restricting liberty and excluding the jurisdiction of ordinary judicial tribunals and the operation of the ordinary criminal procedure, become the rule like ordinary laws.

No doubt it is very creditable to Government and manifests its desire to respect constitutional forms when it comes to the Legislative Council and says: "True, we, the Executive, have power under the Regulation of 1818 and the Governor-General's Ordinance to deal with revolutionary crime. Bu we do not wish to exercise that power and play the autocrat in disregard of the Legislative Council. We wish to act in the matter in co-operation with the Legislative Council which represents the people."

So far the action of the Government is constitutional because it satisfies the first condition of constitutional government that its Executive shall not exercise a power of a summary and arbitrary character, even when it is imperatively needed in the public interests, unless that power is derived from the Legislature of the time as an emergency power. But there is a *second* condition of constitutional government equally important for such power to emanate from the Legislature. That *second* condition is that, since the power is needed to make the criminal law more severe than it is and deprive the people of their right to be tried in the ordinary Courts of Justice according to established rules of law, and since the power is of the nature of arbitrariness, rendered imperative by the nature of the crime to be combated, the Legislature, which is invited by the Executive to give them that power, should be so composed that at least a majority, if not all, of its members shall have no interest in or inducement to make any law, especially a law of this summary and quasi-judicial character, as t Rowlatt Bills, which will not, *in its practical operation*, equally affect then or tend to affect them with the governed—that in other words (to borrow the language of the American Federalists) there must be, between t Legislature and the people for whom it makes such laws, the strongest bo of communion of interests and sympathy of sentiments by which human policy can connect the rulers and the ruled together, or else "the Government," however well-intentioned, "degenerates into a tyranny".

Now, test the position of the Imperial Legislative Council by the ligh of the second condition or constitutional principle above stated. While must be admitted that the Rowlatt Bills have for their object the extermination of revolutionary conspiracies by interning persons suspected by the Executive of that crime without the safeguard of an open judicial tri according to the ordinary criminal procedure, and so guarding th rights and liberties and peace of the people of the Commonwealth, it must be, at the same time, remembered that, as the persons so suspected and therefore interned will be from among the people themselves, the danger of the law—its tendency and scope—affects them all in that every one of them whoever or whatever he be, is exposed, under the law to the fear and risk of being suspected and interned should the Executive choose to do that. The fear and risk may be groundless, but it is there more or less, more in the case of Indians than Europeans. Therefore, such a law, to have the sanction of Legislature, should be passed by a Legislature, the members of which are connected with the peoples being of the people in point of sentiment, interests, inducements and apprehension of

danger.

Is the Legislative Council as it is now constituted that security? The majority of its members are not of the people. The Indians, who are of the people, are in a minority. The former are indeed conscientious and mindful of the interests of the people, according to their lights. But they form the foreign governing power of the land; they represent the ruling race; and, (to cite Burke) "when any community is subordinately connected with another, the great danger of the connexion is the extreme pride and self-complacency of the superior which in all matters of controversy will probably decide in its favour." Hence the value attached to the Indian opinion in the Council and the solicitude for their support shown by the members of Government in that Council, in particular by Sir William Vincent, the mover of the Bills. That being so, of what use will the Rowlatt Bills be, if in disregard of Indian opposition in the Council, they are passed into law by the British majority in it? Will not the law so passed fall under the "greediest of legal categories," VIZ., laws defined by Justinian in his code in the maxim as QUOD PRINCIPI PLACUIT LEGIS HABIT VIGORAM, i.e., "what pleases the Prince has the force of law"? The position of the Legislative Council in that event becomes the same as that of Parliament in the reign of Henry VIII, when Thomas Cromwell crowded it with members directly or indirectly nominated by the Royal Council and got it under "constitutional forms" to enact new laws of treason. The Rowlatt Bills, passing into law under such circumstances, will be no different, as to the source of their authority, from the regulation of 1818 or the Governor-General's Ordinance. In reality they will be the laws of the Executive, though in name only the Legislative Council will be their parent—the voice Jacob's, the hand Esau's. Why place the Legislative Council in this unenviable position?

It is these considerations which ought, I think, to move the Indian members to oppose these Bills and decline to take any responsibility for them. And they should decline all the more because public opinion insists that the root causes of revolutionary crime must be removed by reforms in the direction of responsible government before they, as representatives of the people, can be parties to and pass criminal laws of a summary character to extinguish the manifestation of that crime.

The fear expressed in some quarters that there will be no chance for such measures as the Rowlatt Bills after Mr. Montagu's scheme of responsible government comes into force, ignores the lessons of history and actual experience. What is then the ground of that fear? This, so far as I can see, is that demagogues with so called democratic ideas and visionary schemes of Government, who now flatter the people and rail against Government, will crowd the new Councils and vote plump against such laws and weaken the Executive authority. But is it not the case as proved by the experience of all democratic countries, that no body is so willing to interfere with the liberties of the people as the people themselves or their representative in the Legislature where the people through those representatives are made to share responsibility for the peace and order of their land? Note what Lord Morley says in his Recollections;—"The idealist becomes in business excessively, narrowly and tiresomely, pragmatic and opportunist and actually cultivates a near-sight. With or without cause, he suspects himself and is bent on showing that he is as fit for the profession of real politics as the best of them."

Chronicle of Events

February—May 1919

Feb. 1st to 4th, 1919—All India protest meetings against proposed Rowlatt Legislation at all important towns representing all the influential public opinion of India.

1st Hon'ble Sir D. Wacha wired to Viceroy earnestly requesting postponement of Rowlatt Bills.

6th Viceroy's opening speech in the Imperial Council disillusioning Indian hopes and recommending Rowlatt Bills. **Sir W. Vincent introduced the Rowlatt Bill** and moved for reference to select committee of 15 members, majority being officials. Hon'bles Mr. Patel and Mr. Banerjea opposed and moved for postponement. Hot debate on this motion finally adjourned till next day.

7th Long debate on Rowlatt Bill in Imp. Council,—Non-official Indians opposing to a man. Mr. Patel's motion defeated and Sir W. Vincent's forced through by 36 official votes to 21 against unanimous Indian opposition. Bill referred to Select Committee.

8th Moderate POUR PARLEUR with Home Member (Vincent) in the matter of the Rowlatt Bills.

10th Sir W. Vincent announced that in deference to unanimous non-official opposition the Rowlatt Act was to be in operation for three years and not permanently. He also introduced the Second Bill which was referred to Select Committee against unanimous non-official opposition.

Influential protest meeting at Madras Mahajan Sabha—non-official Council members signed a mandate on Indian members of Imperial Council to oppose the Rowlatt Bill to the end.

13th Calcutta Indian Association protest meeting under Maharaja of Cossimbazar and all influential moderates against the Rowlatt Bills.

15th Bombay protest meeting under Mrs. Besant denouncing the Bill.

16th Home-Rule Campaign against the Black Bills opened by Mrs. Besant at Bombay with a large and influential following.

23rd Bombay Presidency Association protest meeting under Sir D. Petit.

Madras monster protest meeting under Mr. T. V. Venkatarama Iyer hotly denouncing the Rowlatt Bill—Mr. B. C. Pal's lecture on same.

Mar. **1st. Select Committee report on Rowlatt Bill presented** by Sir W. Vincent to Imperial Council, together with strong dissenting minutes by non-official Indian members of the Committee—Messrs. Patel, Malaviya Khaparde not signing the report.

Mahatma Gandhi's press manifesto inaugurating Satyagraha.

The Great Satyagraha vow taken by Home-Rulers and Gandhites in Bombay. Satyagraha Sabha Started its campaign.

2nd Moderate manifesto against passive resistance issued, signed by Hons' Wacha, Bannerjea, Sastri, Nundy, Shafi. Chitnavis and others.

Allahabad Satyagraha meeting under Pt. Motilal Nehru; many taking the vow.

4th Calcutta Nationalists met in Conference supporting Mr. Gandhi and the principle of passive resistance.

6th Gandhi's interview with the Viceroy—the result not made public—both sides, one basing on brute force, the other on soul-force, uncompromisingly strong, and could not come to a settlement.

Mass meeting at Amritsar condemning the Rowlatt Bills.

8th Sir W. Vincent presented Select Committee Report on 2nd Rowlatt Bill.

Madras public meeting under Mr. V. Ramadoss in favour of Satyagraha; many taking the Vow.

C. P. Legislative Council members issue mandate to the representatives in the Imperial Council to withdraw from the Council in protest.

11th Bombay Council members issue mandate to their representatives in the Imperial Council to enter their emphatic protest against the bill.

12th Imperial Council debate on the Rowlatt Bill; Viceroy ruled minutes of dissent to the Select Committee of the Indian members out of order. Government motion for taking into consideration the Bill as amended by Select Committee passed.

13th Imperial Council debate on the amended Bill—long and hot debate lasting whole day till mid-night—non-official amendments all rejected by solid opposition of the Government bloc.

18th Imperial Council debate on 2nd Rowlatt Bill—motion to circulate the bill again for opinion passed.

The last debate on the fateful Rowlatt Bill—Bill passed into Act against solid non-offic al opposition. Hon'ble Mr. Sarma atonce resigns in protest.

19th Madras Beach meeting to wecome Mr. Gandhi. Gandhi's message read and many new Satyagrahis enrolled.

21st Big public meeting at Madras under Mr. C. Vijiaraghava Chariar requesting Viceroy to withold assent to Rowlatt Act and congratulating Hon'ble Mr. Sarma for his resignation—Gandhi's Satyagraha message read.

23rd Satyagraha Movement Started. Gandhi declares 6th April to be All India Hartal and day of humiliation—directed a twenty-four hours-fast and suspension of all business throughout the Motherland.

23-30th Satyagraha week all over India—Meetings and organisations held broad cast in view of coming hartal.

30th Monster Satyagraha day and meeting at Delhi sending cable to Secretary of State against Rowlatt Bill.

First Riot at Delhi. Police and Military fired on unarmed mob.

31st Delhi in mourning—business suspended—City in the hands of the Military—Hindu-Moslem unity solemnised in Mosques and Temples and in funeral processions following biers of innocent victims of last day's Military outrage.

Jullundur—Punjab Provincial political conference held on this and following 3 days—Dr. Kitchlew and Dina Nath of Amritsar addressed on Hindu—Musalman brotherhood.

April 1st—Delhi—Shops closed; people attending funeral processions of the innocent martyrs fallen. Military parading streets.

3rd Government of India Communique on Delhi disturbances issued to the Press—throwing whole blame on the Delhi public and local leaders.

4th Delhi—Col. Beadon convened meeting of Delhi leaders at which he abused Satyagraha, sought their co-operation, and presented a handbill for circulation broad cast. Satyagraha Sabha repudiated the Beadon allegations.

Amritsar—Drs. Satyapal and Kitchlew prohibited to address public meetings.

6th All India Hartal, penance, humiliation, fasting and prayer as a passive protest against the Rowlatt Act. Civil disobedience of Press laws in Bombay by sale of proscribed and unregistered literature started, the unregistered paper "Satyagrahi" issued.

7th The parting kick of Sir M. O'Dowyer abusing and threatening Indian political workers of the Day of Reckoning soon to come.

9th M. Gandhi Arrested and Deported at Palwal without notice while travelling by train from Bombay to Delhi. Order passed on him not to enter Delhi and Punjab and interning him in Bombay Presidency.

Amritsar—Ram Navami Day, processions peacefully carried out playing the English National Anthem and paying homage to King and the Deputy Commissioner Mr. Miles Irvine. Latter receives order from Sir M. O'Dwyer to deport Dr. Satyapal and Kitchlew, the local leaders of passive resistance.

10th Amritsar—Arrest and Deportation of Drs. Satyapal and Kitchlew.

Mob outrage, Riot, incendiarism in Amritsar—mob fired at; Mob then turned and looted Banks, Telegraph office, Post office, Zenana Hospital, C. M. S. Girl's Schools and burnt them, and also killed with gross brutality several Europeans.

Lahore—huge mob marching to petition Government was fired upon by the Police and the military near Anarkali; many killed and wounded.

Aeroplane hovering over the city.

All India closing of shops as a mark of sorrow for Gandhi's arrest.

Second Hartal all over Punjab and elsewhere.

11th Quiet at Amritsar and Lahore. Reinforcements pouring in from Jullunder and elsewhere.

All India Hartal and suspension of business continued,

Kasur—Public meeting against Rowlatt Act.

Ahmedabad—Mob outrage in city on hearing Gandhi's arrest.

12th Lahore—Badshahi Mosque meeting. C. I. D. pugree burnt. Mob fired upon by troops. Huge crowed attacked and looted Railway Station on being fired upon by soldiers travelling in a train. The train was stopped, derailed and burnt.

Kasur—Excited mob fired at by 2 European Soldiers from a train. Mob murdered the Soldiers, burnt Station, wrecked the train, and looted and destroyed all Government property.

Calcutta—Hartal on hearing Gandhi's arrest—Some mild disturbance at Burrabazar—Police and Military fire on Mob.

13th Amritsar—**Jhallianwala Bagh Massacre**. Peaceful meeting of twenty thousand men fired upon continuously unprovoked for ten minutes by Gen. Dyer; 500 killed, 1500 wounded and left for two days exposed to the elements without medical or any relief.

Delhi—Rumour of deportation of Leaders afloat—Great consternation in town; Mob provoked to assume threatening attitude.

14th Gujranwalla—Jhallianwalla Bagh news received. Whole town on Hartal. A big Baisakhi day held at Wazirabad. Booking stopped and the huge excited crowed stopped the train, pulled down passengers and set fire to the station yard. Mob further excited by slaughtered cows and pigs and assaulted Mr. Herron, S. P. who fired and caused death. Excitement leaped up into a flame resulting in acts of incendiarism—Post Office, Dak Bungalow, Court houses, Railway godown and the Church burnt down. Aeroplanes hovering over town dropped bombs, some on the Khalsa High School and neighbouring villages killing women and children.

Batala (in Gurdaspur)—Telegraph Wires cut by mob.

Wires also cut between Lahore—Amritsar and between Sialkot-Wazirabad.

Rohtak—Riotous mob attacked Ry. line, and cut it, damaged the Ry. bridge and attacked a train.

Delhi—Mob began to appear armed with Lathis on rumoured deportations of popular leaders. Town hall conference between officials and leaders came to nothing.

The Satyagraha Movement.

Mahatma Gandhi Starts Work.

On March 1, 1919. Mahatma Gandhi addressed the following letter to the Press :—

Sir,—I enclose herewith the Satygaraha Pledge regarding the Rowlatt Bills. The step taken is probably the most momentous in the history of India. I give my assurance that it has not been hastily taken. Personally I have passed many a sleepless night over it. I have endeavoured duly to appreciate the Government's position, but I have been unable to find any justification for the extraordinary Bills. I have read the Rowlatt Committee's Report. I have gone through its narrative with admiration. Its reading has driven me to a conclusion just opposite of the Committee's. I should conclude from the reports that secret violence is confined to isolated and very small parts of India and to a microscopic body of the people. The existence of such men is truly a danger to the society. But, the passing of the Bills, designed to affect the whole of India and its people and arming the Government with power out of all proportion to the situation sought to be dealt with, is a greater danger. The Committee utterly ignores the historical fact that the millions of India are by nature the gentlest on the earth.

"Now look at the setting of the Bills. Their introduction is accompanied by certain assurances given by the Viceroy regarding the Civil Service and British commercial interests. Many of us are filled with the greatest misgivings about the Viceregal utterance. I frankly confess, I do not understand its full scope and intention. If it means that the Civil Service and British commercial interests are to be held superior to those of India and its political and commercial requirements, no Indian can accept the doctrine. It can but end in a fratricidal struggle within the empire.

Trustee and Servant.

"The reforms may not come ; the need of the moment is the proper and just understanding upon the vital issue. No tinkering with it will produce real satisfaction. Let the great Civil Service Corporation understand that it can remain in India only as its trustee and servant, not in name but in deed and let the British commercial houses understand that they can remain in India only to supplement her requirements and not to destroy indigenous art, trade and manufacture, and you have two measures to replace the Rowlatt Bills.

"They, I promise, will successfully deal with any conspiracy against the State.

"Sir George Lowndes simply added fuel to the fire when he flouted public opinion. He has forgotten his Indian history or he would have known that the Government he represents has before now surrendered its own considered opinion to the force of public opinion.

"It will be now easy to see why I consider the bills to be the unmistakable symptom of the deep-seated disease in the governing body. It needs, therefore, to be drastically treated. Subterranean violence will be the remedy by the impetuous, hotheaded youths, who will have grown impatient of the spirit underlying the bills and circumstances attending their introduction. The Bills must intensify hatred and ill-will against the State, of which deeds of violence are undoubtedly an evidence. The Indian Covenanters, by their determination to undergo every form of sufferings, make an irresistible appeal to the Government, towards which they bear no ill-will, and provide to the believers in efficiency of violence as means of securing redress of grievance with the infallible remedy and withal a remedy that blesses those that use it and also goes against whom it is used. If the covenanters know the use of this remedy, I fear no ill from it. I have no business to doubt their ability. They must ascertain whether the disease is sufficiently great to justify a strong remedy and whether all milder ones have been tried. They have convincedr themselves that the disease is serious enough and that the milde measures have utterly failed. The rest lies in the lap of the Gods'.

The Satyagraha Vow.

"Being conscientiously of opinion that the Bills known as the Indian Criminal Law (Amendment) Bill No. 1 of 1919 and the Criminal Law (Emergency Powers) Bill No, 2 of 1919 are unjust, subversive of the principle of liberty and justice and destructive of the elementary rights of individuals, on which the safety of the community as a whole and the State itself is based, we solemnly affirm that in the event of these Bills becoming law and until they are withdrawn, we shall refuse civilly to obey those Laws and such other Laws as a Committee* to be hereafter appointed may think fit and we further affirm that in this struggle we will faithfully follow the truth and refrain from violence to life, person or property."

[*For the Laws to be broken as selected by this Committee, see p. 47.]

Dr. Subrahmania on Satagraha.

Dr. Subramania Aiyar's Views.

The following account of an interview with Dr. S. Subrahmania Aiyar, the Venerable Ex-Chief Justice of Madras and President Home Rule League, as regards passive resistance was published in "The Hindu" of Madras in March last.

Dr. S. S. Aiyer.— In my speech as Chairman of the Reception Committee during the Congress sittings held in Madras last time, I stated almost in terms that the course similar to the one adopted by Mr. Gandhi in South Africa with such signal success was the one which would prove efficacious in our hands against autocracy in this country The spirit of my remarks on the point then will be found to be in entire accord, if I may say so, with what pervades the recent utterances of that most distinguished countryman of ours who is now amongst us since he initiated the present movement a few weeks ago.

Interviewer—What is the reason for yor opinion remaining unchanged as you said ?

Dr. S. S. Aiyer.—The more I think about it the more I am convinced that the circumstances of the Indian people leave no alteranative but to resort to the use of this remedy, against the ever tightening policy of repression of the present Government. I have said again and again,resort to brute force for obtaining redress at the hands of our rulers is out of the question. For, in the first place, even if it were permissable to resort to such force from the point of view of morality and justice, we possess none of the facilities required But I hold strongly that the invisible powers that are guarding our well-being intend that our salvation should be accomplished without crime, and violence. Otherwise, I cannot understand why we should have been deprived of all use of arms as we have been, so as to make us incapable of resisting oppression in the way nations have been accustomed hitherto to defend themselves against their oppressors. It follows either there is no salvation to us as a nation or our salvation is to be brought about by means other than revolution and bloodshed. That we as a nation are not to perish goes without saying, having regard to the necessity of the essentials of our past great civilisation being preserved for the benefit of the world. How then are we to be freed from the domination which seems to be crushing out all life from us ? The answer is that those who are exercising this domination are blind to our sufferings and deaf to our entreaties, and nothing would open their eyes and ears but the impossibility of carrying on the administration of the country which would be created by passive resistance becoming common among the people more or less throughout the country.

Interviewer :—Is that likely ?

Dr. S. S. Aiyer :—No doubt it would take time before such a state of things comes to pass, but judging from the existing conditions one cannot but feel that the movement now set on foot marks the beginning of what is going to happen not very long hence. What I said as Chairman at the meeting held to welcome Mr. Gandhi, when he paid his first visit to this city, comes back to my mind now. After observing that the phrase about the new angle of vision which had been used by the then Under-Secretary of State, was an empty compliment and that the policy towards us after the war would be worse than instead of better, I stated emphatically that only when people came to be educated and guided by hundreds of Sanyasins like Mr. Gandhi, our people could hope to obtain that freedom without which true and prosperous national life was impossible.

Interviewer :—Are such Sanyasin leaders forthcoming now ?

Dr. S. S. Iyer :—Not yet in sufficient numbers ; but be assured that they will be in due course; of course not generally from the well-to-do classes who are accustomed to comfort if not to luxury in their lives. This class will shrink from the severe trials that would await the true and earnest passive resister. Such Sannyasin leaders will come from the humble section of the community some of whose representatives followed Mr. Gandhi with marvellous devotion in South Africa and enabled him to win the battle he there waged so nobly on our behalf. It strikes me that what he did there was but the prelude to the work which he has now undertaken to do here. That work is indeed uphill in every sense and may seem to progress little for sometime to come. But it is certain that the moral effect of the movement on the people at large is one not to be treated with contempt by the autocrat but must command his serious consideration. If things go wrong as the result of the movement, the blame will be his. No responsibility could attach to those who are called upon to embark on this attempt to resort to spiritual force through sheer necessity as against the asserted foundation of the British rule on brute force. The confession attributed to the Viceroy on this subject, if true, forebodes nothing but evil as it must wipe out every vestige of loyalty in the country and convert all its well-wishers into disaffected persons.

Interviewer.—Would you not like to enter into details as to how to carry on the movement ?

Dr. S. S. Aiyer.—No. That will have to be attended to by those on whom the actual duty of leading the people devolves, in the parts of the country, where the movement finds encouragement. That duty, indeed, is a very difficult and sacred one. It should not be undertaken lightly and unless those who take the pledge fulfill it by their infailing conduct, they would only retard the consummation that movement is bound to ensure. What is important is that none should take the pledge without fully realising the sacrifice it involves. It matters little that the number of those who take the pledge is small so long as those who take it are certain to act up to it. Even the example of a few who suffer in the exercise of this spiritual remedy is bound to tell in the long run and it would be a mistake to look upon the movement as unpromising from the mere fact that the number of pledged passive resisters is not very encouraging just now. Let me say that every aspect of the question has been considered by Mr. Gandhi and those who want details will get all the information they require from him if they care.

Satyagraha Expounded By Gandhi.

Madras—18th March 1919.

A huge mass Meeting was held in Madras on this date to offer a welcome to Mahatma Gandhi and to support his Satyagraha movement. Mr. Kasturiranga Aiyangar presided and after a brief speech requested Mahatma Gandhi to say a few words. The Mahatma said a few words in a very low tone sitting in the chairs as he was seriously suffering from heart complaints and said that Mr. Desai would read his speech.

The Message,

Mr. Desai then read the following speech of Mahatma Gandhi :—

I regret that owing to heart weakness I am unable to speak to you personally. You have no doubt attended many meetings, but these that you have been attending of late are different from the others in that at the meetings to which I have referred some immediate tangible action, some immediate definite sacrifice has been demanded of you for the purpose of averting a serious calamity that has overtaken us in the shape of what are known as the Rowlatt Bills. One of them Bill No. 1 has undergone material alteration and its further consideration has been postponed. In spite however of the alteration it is mischievous enough to demand opposition. The Second Bill has probably at this very moment been finally passed by the Imperial Legislative Council or rather will be claimed to have been passed by that Council, for in reality you can hardly call a Bill having been passed by that august body when all its non-official members unanimously and in strong language opposed it. The Bills require to be resisted not only because they are in themselves bad, but also because Government who are responsible for their introduction have seen fit practically to ignore public opinion and some of its members have made it a boast that they can so ignore that opinion. So far it is common cause between the different schools of thought in the country. I have, however after much prayerful consideration, and after very careful examination of the Government's standpoint,

pledged myself to offer Satyagraha against the Bills, and invited all men and women who think and feel with me. to do likewise. Some of our countrymen including those who are among the best of the leaders, have uttered a note of warning and even gone so far as to say that this Satyagraha movement is against the best interests of the country. I have naturally the highest regard for them and their opinion, I have worked under some of them. I was a babe when Sir Dinshaw Wacha and Surendranath Bannerjee were among the accepted leaders of public opinion in India. Mr. Shastriar is a politician who had dedicated his all to the country's cause. His sincerity, his probity are all his own. He will yield to no one in the love of the country. There is a sacred and indissoluble tie binding me to him. My upbringing draws me to the signatories of the two Manifestoes. It is not therefore without the greatest grief and much searching of heart that I have to place myself in opposition to their wishes. But there are times when you have to obey a call which is the highest of all i e., the voice of conscience even though such obedience may cost many a bitter tear, nay even more, separation from friends, from family, from the state to which you may belong, from all that you have held, as dear as life itself. For this obedience is the law of our being. I have no further and other defence to offer for my conduct. My regard for the signatories to the manifestoes remains undiminished, and my faith in the efficacy of Satyagraha is so great that I feel that if those who have taken the pledge will be true to it we shall be able to show to them that they will find when we have come to the end of this struggle that there was no cause for alarm or misgivings. There is, I know, resentment felt even by some Satyagrahis over the Manifestoes. I would warn Satyagrahis that such resentment is against the spirit of Satyagraha. I would personally welcome an honest expression of difference of opinion from any quarter and more so from friends because it puts us on our guard. There is too much recrimination, inuendo and insinuation in our public life and if the Satyagraha movement purges it of this grave defect, as it ought to, it will be a very desirable by-product. I wish further to suggest to Satyagrahis that any resentment of the two manifestoes would be but a sign of weakness on our part. Every movement, and Satyagraha most of all. must depend upon its own inherent strength, but not upon the weakness or silence of its critics. Let us therefore see wherein lies the strength of Satyagraha. As the name implies it is in an insistence on truth which dynamically expressed means Love; and by the

Law of Love we are required not to return hatred for hatred, violence for violence, but to return good for evil. As Shrimati Sarojini Devi told you yesterday the strength lies in a defined recognition of the true religious spirit and action corresponding to it and when once you introduce the religious element in politics, you revolutionise the whole of your political outlook. You achieve reform then not by imposing suffering on those who resist it, but by taking the suffering upon yourselves, and so in this movement we hope by the intensity of our sufferings to affect and alter the Government's resolution not to withdraw these objectionable Bills. It has however been suggested that the Government will leave the handful of Satyagrahis severely alone and not make martyrs of them. But there is here in my humble opinion bad logic and an unwarranted assumption of fact. If Satyagrahis are left alone, they have won a complete victory because they will have succeeded in disregarding the Rowlatt Bills and even other laws of the country, and in having thus shown that a civil disobedience of a Government is held perfectly harmless by it; I regard the statement as an unwarranted assumption of fact because it contemplates the restriction of the movement only to a handful of men and women. My experience of Satyagraha leads me to believe that it is such a potent force that once set in motion it ever spreads till at last it becomes a dominant factor in the community in which it is brought into play and if it so spreads no Government can neglect it. Either it must yield to it or imprison the workers in the movement. But I have no desire to argue. As the English proverb says "the proof of the pudding lies in the eating." The movement for better or for worse has been launched. We shall be judged not by our words, but solely by our deeds. It is, therefore, not enough that we sign the pledge. Our signing it is but an earnest of our determination to act up to it, and if all who sign the pledge act according to it, I make bold to promise that we shall bring about withdrawal of the two Bills and neither the Government nor our critics will have a word to say against us. The cause is great, the remedy is equally great; let us prove worthy of them both.

Madras—20th March 1919.

In another meeting held at Madras under the Presidency of Mr. C. Vijayaraghavachariar to send an appeal to the Viceroy to withhold his assent to the Rowlatt Bill, the President remarked that he was there in the place of Mr. Gandhi who was in ill-health, and after a short speech asked Mr. Desai to read out Mr. Gandhi's speech given below.

Mahatma Gandhi's Message.

Mr. Desai read the following message of Mahatma Gandhi :—

FRIENDS, This afternoon I propose to deal with some of the objections that have been raised against Satyagraha. After saying that it was a matter of regret that men like myself "should have embarked on this movement" Sir Wm. Vincent in winding up the debate on Bill No. 2 said, "they could only hope that it (the Satyagraha) would not materialise. Mr. Gandhi might exercise great self-restraint in action, but there would be other young hotheaded men who might be led into violence which could not but end in disaster. Yielding to this threat, however, would be tantamount to complete abolition of the authority of the Governor-General-in-Council". If Sir William's fear as to violence is realised it would undoubtedly be a disaster. It is for every Satyagrahi to guard against that danger. I entertain no such fear because our creed requires us to eschew all violence and to resort to truth and self suffering as the only weapons in our armoury. Indeed the Satyagraha movement is among other things an invitation to those who believe in the non-efficiency of violence for redress of grievances to join our ranks and honestly to follow our methods. I have suggested elsewhere that what the Rowlatt Bills are intended to do and what I verily believe they are bound to fail in achieving is exactly what the Satyagraha movement is preeminently capable of achieving. By demonstrating to the party of violence the infallible power of Satyagraha and by giving them ample scope for their inexhaustible energy we hope to wean that party from the suicidal method of violence. What can be more potent than an absolute statement accompanied by corresponding action, presented in the clearest terms possible that violence is never necessary for the purpose of securing reforms ? Sir William says that the movement has great potentialities of evil. The Hon. Pandit Madan Mohan Malaviya is said to have retorted "and also of good." I would venture to improve upon the retort by saying "only of good."

It constitutes an attempt to revolutionise politics and to restore moral force to its original station. After all, the Government do not believe in an entire avoidance of violence i.e,, physical force. The message of the West which the Government of India I presume, represent, is succintly put by President Wilson in his speech delivered to the Peace Conference at the time of introducing the League of Nations Covenant. "Armed force is in the background in this programme, but it is in the background, and if the moral force of the world will not suffice, physical force of the world shall." We hope to reverse the process, and by our action show that physical force is nothing compared to the moral force, and that moral force never fails. It is my firm belief that this is the fundamental difference between modern civilisation and the ancient of which India, fallen though it is, I venture to claim is a living representative. We, her educated children seem to have lost faith in this the grandest doctrine of life. If we could but restore that faith in the supremacy of moral force, we shall have made a priceless contribution to the British Empire, and we shall, without fail, obtain the reforms we desire and to which we may be entitled. Entertaining such views it is not difficult for me to answer Sir William's second fear as to the complete abolition of the authority of the Governor-General in Council. This movement is undoubtedly designed, effectively to prove to the Government that its authority is finally dependant upon the will of the people and not upon force of arms, especially when that will is expressed in terms of Satyagraha. To yield to a clear moral force cannot but enhance the prestige and the dignity of the yielder.

It is to such a movement that every man and woman in this great country is invited, but a movement that is intended to produce far-reaching results, and which depends, for success on the purity and the capacity for self-suffering of those who are engaged in it, can only be joined after a searching and prayerful self-examination. I may not too often give the warning I have given at Satyagraha meetings that everyone should think a thousand times before coming to it, but having come to it he must remain in it, cost what it may. A friend came to me yesterday, and told me that he did not know that it meant all that was explained at a gathering of a few Satyagrahi friends and wanted to withdraw. I told him that he could certainly do so if he had signed without understanding the full consequences of the pledge. And I would ask everyone who did not understand the pledge as it has been explained at various meetings to copy this example. It is not

numbers so much as quality that we want. Let me therefore note down the qualities required of a Satyagrahi. He must follow truth at any cost and in all circumstances. He must make a continuous effort to love his opponents. He must be prepared to go through every form of suffering, whether imposed upon him by the Government which he is civilly resisting for the time being, or by those who may differ from him. This movement is thus a process of purification and penance. Believe me that if we go through it in the right spirit all the fears expressed by the Government and some of our friends will be proved to be groundless and we will not only see the Rowlatt Bills withdrawn, but the country will recognise in Satyagraha a powerful and religious weapon for securing reforms and redress of legitimate grievances.

Appeal to the Viceroy.

The following resolution was then put from the chair :—

"In view of the unanimous opposition of India to the Rowlatt Bill and the fact that not a single Indian non-official member voted with the Government for the passing of the Bill, this public meeting appeals to His Excellency the Viceroy to withold his assent to the Act, or in the alternative. to reserve the Act for the signification of His Majesty's pleasure under Section 68 of the Government of India Act."

Hartal of 6th April.

Mr. Gandhi's Instructions.

Satyagraha, as I have endeavoured to explain at several meetings, is essentially a religious movement. It is a process of purification and penance. It seeks to secure reforms or redress of grievances by self-suffering. I therefore venture to suggest that the second Sunday after the publication of the Viceregal assent to Bill No. 2 of 1919 (i.e., 6th April) may be observed as a day of humiliation and prayer. As there must be an effective public demonstration in keeping with the character of the observance, I beg to advise as follows :

(i) A twenty-four hours' fast counting from the last meal on the preceding night should be observed by all adults, unless prevented from so doing by consideration of religion or health. The fast is not to be regarded in any shape or form, in the nature of a hunger strike, or as designed to put any pressure upon the Government. It is to be regarded, for the Satyagrahis, as the necessary discipline to fit them for civil disobedience, contemplated in their pledge, and

for all others, as some slight token of the intensity of their wounded feelings.

(ii) All work, except such as may be necessary in the public interest, should be suspended for the day. Markets and other business places should be closed. Employees who are required to work even on Sundays may only suspend work after obtaining previous leave.

I do not hesitate to recommend these two suggestions for adoption by public servants. For though it is unquestionably the right thing for them not to take part in political discussion and gatherings, in my opinion they have an undoubted right to express upon vital matters their feelings in the very limited manner herein suggested.

(iii) Public meetings should be held on that day in all parts of India, not excluding villages, at which Resolutions praying for the withdrawal of the two measures should be passed.

If my advice is deemed worthy of acceptance, the responsibility will lie in the first instance on the various Satyagraha Associations, for undertaking the necessary work of organisation, but all other associations will, I hope, join hands in making this demonstration, a success.

Madras, 23rd March, 1919. M. K. GANDHI.

Another Madras Meeting.

30th March '19.

On this day a meeting was held at Madras with the Hon. Mr. R. Aiyangar, the Member of the Imperial Council who took the Satyagraha Pledge, in the Chair.

M. Gandhi's Message

Mahatma Gandhi could not attend the meeting as he had left for Bezwada that day and Mr. Satyamurti read the following message from the Mahatma :—

Dear Mr. Rangaswami,—I am sorry that I shall not be with you for this evening's meeting, as I must take the train for Bezwada in order to keep my engagement with our Andhra friends. But before my departure, I would like to reduce to writing my impressions of the tour through the Southern part of the Presidency, which I have just completed, and to answer some criticism and some doubts that have been offered by friends.

I have visited Tanjore, Trichinopoly, Madura, Tuticorin and Negapatam ; and taking the lowest estimate, the people addressed must have been not less than thirty thousand. Those who have a

a right to give us warning, to express misgivings and who have just as great a love of the motherland as we claim to have, have feared that however well-meaning we may be, and however anxious we may be to avoid violence, the people who may join the movement under an enthusiastic impulse may not be able to exercise sufficient self-control and may break out into violence, resulting in needless loss of life, and what is more, injury to the national cause. After embarking upon the movement, I began addressing meetings at Delhi. I passed then through Lucknow, Allahabad and Bombay to Madras. My experience of all these meetings shows that the advent of Satyagraha has already altered the spirit of those who attend the Satyagraha meetings. In Lucknow, upon an innocent remark by the Chairman as to the manifesto signed by some of the members of the Imperial Legislative Council disapproving of our movement, the audience cried out "Shame! Shame!" I drew their attention to the fact that Satyagrahis and those who attended Satyagraha meetings should not use such expressions and that the speeches at our meetings ought not to be punctuated with either marks of disapproval or of approval. The audience immediately understood the spirit of my remarks and never afterwards made any demonstration of their opinion. In the towns of this Presidency, as elsewhere, whilst it is true that the large crowds have refrained from any noisy demonstration out of regard for my health, they have fully understood the necessity of refraining from it on the higher ground. The leaders in the movement, have also fully understood the necessity for self-restraint. These experiences of mine fill me with the greatest hope for the future. I never had any apprehensions of the danger our friends fear; and the various meetings I have described confirm my optimism. But I would venture further to state that every precaution that is humanly possible is being and will be taken to avert any such danger. It is for that reason that our pledge commits the signatories to the breach of those laws that may be selected for the purpose by a Committee of Satyagrahis (See p. 47); and I am glad that our Sindh friends have understood their pledge, and obeyed the prohibition of the Hyderabad Commissioner of Police to hold their inoffensive procession, for it is no part of the present movement to break all the laws of the land the breach of which is not inconsistent with the pledge. A Satyagrahi is nothing if not instinctively a law-abiding nd it is his law-abiding nature which exacts from him implicit obedience of the highest law, i.e. the voice of conscience, which over-rides all other laws. His civil disobedience even of certain laws only is only seeming disobedience. Every law gives the subject an option either to obey the primary sanction or the secondary; and I venture to suggest that the Satyagrahi by inviting

the secondary sanction obeys the law. He does not act like the ordinary offender who not only commits a breach of the laws of the land, whether good or bad, but wishes to avoid the consequences of that breach. It will seem therefore that everything that prudence may dictate has been done to avoid any untoward results.

Some friends have said: 'We understand your breach of the Rowlatt legislation, but as a Satyagrahi there is nothing for you in it to break. How can you, however, break the other laws which you have hitherto obeyed, and which may also be good?' So far as the good laws are concerned, *i.e.*, laws which lay down moral principles, the Satyagrahi may not break them, and their breach is not contemplated under the pledge. But the other laws are neither good nor bad, moral or immoral. They may be useful, or may even be harmful. These laws one obeys for the supposed good Government of the country. Such laws are laws framed for purposes of revenue, or political laws creating statutory offences. These laws enable the Government to continue its power. When therefore a Government goes wrong to the extent of hurting the national fibre itself, as does the Rowlatt legislation, it becomes the right of the subject, indeed it is his duty, to withdraw his obedience to such laws, to the extent it may be required, to bend the Government to the national will.

A doubt has been expressed during my tour, and by friends who have written to me, as to the validity in terms of Satyagraha of the entrustment of the selection of the laws for breach to a committee. For, it is argued that it amounts to a surrender of one's conscience, to leave such selection to others. This doubt betrays a misunderstanding of the pledge. A signatory to the pledge undertakes so far as he is concerned to break if necessary all the laws which it would be lawful for a Satyagrahi to break. It is not however obligatory on him to break all such laws. He can therefore perfectly conscientiously leave the selection of the laws to be broken to the judgement of those who are experts in the matter and who in their turn are necessarily subject to the limitations imposed by the pledge. The worst that can happen to any signatory is that the selection may not be exhaustive enough for him.

I have been told that I am diverting the attention of the country from the one and only thing that matters, *viz.*, the forthcoming Reforms. In my opinion the Rowlatt legislation, inspite of the amendment which, as the Select Committee very properly says, does not affect its principles, blocks the way to progress, and therefore to the allotment of the substantial reforms. To my mind, the first thing needful is to secure a frank and full recognition of the principle that public opinion properly expressed shall be respected by the Government. I am no believer in the doctrine that the same power can at the same time trust and distrust, grant liberty and repress it.

I have a right to interpret the coming reforms by the light that the Rowlatt legislation throws upon them ; and I make bold to promise that if we do not gather sufficient force to remove from our path this great obstacle in the shape of the Rowlatt legislation, we shall find the Reforms to be a whitened sepulchre.

Yet another objection to answer. Some friends have argued, "Your Satyagraha movement only accentuates the fear we have of the onrush of Bolshevism" The fact, however, is that if anything can possibly prevent this calamity descending upon our country, it is Satyagraha. Bolshevism is the necessary result of modern materialistic civilization. Its insensate worship of matter has given rise to a school which has been brought up to look upon material advancement as the goal and which has lost all touch with the finer things of life. Self-indulgence is the Bolshevik creed. Self-restraint is the Satyagraha creed. If I can but induce the nation to accept Satyagraha, if only as a predominant factor in life, whether social or political, we need have no fear of the Bolshevik propaganda. In asking the nation to accept Satyagraha, I am asking for the introduction in reality of nothing new. I have coined a new word for an ancient law that has hitherto mainly governed our lives and I do prophesy that if we disobey the law of the final supremacy of the spirit over matter, of truth and love over brute-forces, in a few years' time we shall have Bolshevism rampant in this India which was once so holy.

Laws of Civil Disobedience.

The following statement was issued in March last by the Satyagraha Sabha, Bombay :—

The Committee contemplated by the Satyagraha Pledge has advised that for the time being laws regarding prohibited literature and registration of newspapers may be civilly disobeyed.

With reference to prohibited literature, the Committee has selected the following prohibited works for dissemination :

"Hind Swarajya" by M. K. Gandhi.

"Sarvodaya" or Universal Dawn, by M. K. Gandhi (being a paraphrase of "Unto This Last.")

"The Story of a Satyagrahi," by M. K. Gandhi (being a paraphrase of the 'Defence and Death of Socrates' by Plato).

"The Life and Address of Mustafa Kamil Pasha."

(Printed at the International Printing Press).

In making this selection, the Committee has been guided for the following considerations :—

(1) To cause as little disturbance as possible among the Governors and the governed ;

(2) Until Satyagrahis have become seasoned, disciplined and capable of handling delicately organised movements, to select such laws only as can be disobeyed individually ;

(3) To select, as a first step, laws that have evoked popular disapproval and that, from the Satyagraha standpoint, are the most open to attack ;

(4) To select laws whose civil breach would constitute an education for the people, showing them a clear way out of the difficulties that lie in the path of honest men desiring to do public work ;

(5) Regarding prohibited literature, to select such books and pamphlets as are not inconsistent with Satyagraha, and which are therefore, of a clean type and which do not, either directly or indirectly, approve of or encourage violence.

How to commit civil disobedience.

Satyagrahis should receive copies of prohibited literature for distribution. A limited number of copies can be had from the Secretaries of the Satyagraha Sabha. Satyagrahis should, so far as possible, write their names and addresses as sellers, so that they may be traced easily when wanted by Government for

prosecution. Naturally, there can be no question of secret sale of this literature. At the same time there should be no forwardness either in distributing it.

It is open to Satyagrahis to form small groups of men and women to whom they may read this class of literature. The object in selecting prohibited literature is not merely to commit a civil breach of the law regarding it, but also to supply people with clean literature of a high moral value. It is expected that the Government will confiscate such literature. Satyagraha is and has to be as independent of finance as possible. When, therefore, copies are confiscated, Satyagrahis are required to make copies of prohibited literature themselves or by securing the assistance of willing friends and to make use of it until it is confiscated by giving readings to the people from it. It is stated that such readings would amount to dissemination of prohibited literature. When whole copies are exhausted by dissemination or confiscation Satyagrahis may continue civil disobedience by writing out and distributing extracts from accessible books.

Regarding civil breach of the law governing the publication of newspapers, the idea is to publish in every Satyagraha centre a written newspaper without registering it. It need not occupy more than one side of half a foolscap. When such a newspaper is edited, it will be found how difficult it is to fill up half sheet. It is a well-known fact that the vast majority of newspapers contain much padding. Further, it cannot be denied that a newspaper articles written under the terror of the very strict newspaper law have a double meaning, A Satyagrahi for whom punishments provided by law have lost all terror, can give only in an unregistered newspaper his thoughts and opinions unhampered by any other consideration than that of his own conscience. His newspaper, therefore, if otherwise well edited, can become a most powerful vehicle for transmitting pure ideas in a concise manner, and there need be no fear of inability to circulate a hand-written newspaper; for it will be the duty of those who may receive the first copies to copy till at last the process of multiplication is made to cover, if necessary, the whole of the masses of India. And it must not be forgotten that we have in India the tradition of imparting instruction by oral teaching.

The Storm Ahead.

The month of March was the month of Satyagraha propaganda. Up and down India Satyagraha Sabhas cropped up. And more and more as officials set their teeth against it and Anglo-Indians jeered and twitted it, the great mass of the educated Indians, exasperated at their impotence by the contumely and insult thrown at them by the Anglo Indian Press, steeled their resolve to make Satyagraha their coming creed. This way lay salvation, they thought, for this way led to the heart of the people, of the masses of India. Early in the month the Viceroy summoned Mahatma Gandhi and in the interview that followed it was reported that Gandhi urged soul force—love and esteem—as the bedrock of British Empire in India and at this the Viceroy is said to have sneered. "If brute force should be the basis of the the British Government in India", said Gandhi, then all India should be considered disloyal and he offered himself the first disloyal subject. The interview came to nothing, the Viceroy pooh-poohing the uncanny idea of soulforce to which as a Britisher he could not possibly endorse. A very much similar expression typifying the same mentality was used by Sir Michael O'Dower a few days later when addressing one of his Sirdars on the question of the Hartal, he is reported to have exclaimed "remember Sardar Sahib, there is a Mightier force than soul force", to illustrate which he banged the table with his clenched fist!

During the debate on the Rowlatt Bill (see Part ii) almost every political organisation of the country voicing the Indian view point, as well as the Indian Members of the local councils unanimously demanded their representatives in the Imperial Council either to withdraw from that council or to enter their most emphatic protest against the bill on behalf of the People. The Indian Daily Papers flaunted with big bold headings, "The Black Bill," "The Cobra Bill," over columns of Passive resistance liturature, quoting Morley on Russianism and giving disquisitions on Prussianism. The atmosphere was tense with a feeling of coming martyrdoom. Almost every prominent leader of Indian polity conveyed grave warning to the Government of the coming storm. The Hon. Mr. Banerji declared that if the measure were not withdrawn, there would be an agitation far more fierce than the Partition of Bengal gave rise to. The Hon'ble Messrs Sastri and Sapru were still more emphatic. The horrid blackness of the measure, they declared, threw them all,

moderates or nationalists, all into the same fold. "The agitation is already there," said Mr. Sastri, "and if our appeal fails, if the bill goes through, I do not believe there is any one here who would be doing his duty if he did not join the agitation." The Hon'ble Rai Bahadur Sukul affirmed that "if the Government do not heed this, there will certainly follow a violent agitation the like of which India has never witnessed before, and the responsibility will then be yours, my Lord, and not ours," To all this the Hon'ble the law Member replied with that characteristic cynicism which befits the British Bureaucrat in India, "Oh! agitation will be what the politicians choose to make it," and the Home member said "this card of agitation has been played a little too much recently"!

Despite a whole Nation's protest, the Rowlatt Bill passed into Law on the 18th March 1919, by the sheer grinding force of that "Block of Granite"—the official phalansk of the Government of India. It was carried by the 35 Government votes and opposed by 20 out of 25 non-official Indians, some of whom absented through sheer disgust. There were 187 amendments proposed by the Indian Members and every one of them was defeated by the official block. Messrs. Jinnah, Aiyangar, Mazharul Haque, Khaparde, Sunder Singh, Zulfiquer Ali, who all along strongly protested were absent on the last day of voting. Immediately the bill was passed. Mr. B. N Sarma handed in his resignation to the Viceroy. In that letter he said "the passing of the Bill... is a dangerous violation of the fundamental principles of juris prudence and of the Constitution, a grave menace to the liberty of the subject, and perhaps marks the begining of the end." Mr. Jinnah was also on the point of resigning, but waited for the Vicergal assent to be given. Every day Satyagraha signatories joined up in hundreds. The Hon'ble Mr. Aiyangar, himself a signatory, dashed forward with the satyagraha propaganda at Madras. At Bombay the whole town closed down in protest on the 19th. Some days after Mr. Mazharul Huq resigned, and was followed by Rai Bahadur B. D. Sukul and Pandit Malaviya.

Such was the setting of the Rowlatt Act in the political machinery of India. It was an augury of coming events. War won, flushed with victory, secure in their strength of Arms—such was the under current of British mentality, official and commercial, in India. An imperialistic *sang froidness* characterised it.

"The British Government which has subdued enemies can despise agitators"—that was the official attitude, the attitude of benevolent despotism which has in recent years tumbled down everywhere except in India.

The Delhi Riot

The Satyagrahis of Delhi under the guidance of Swami Sharadananda, popularly known as Mahatma Munshi Ram of Hardwar Gurukula School, made arrangements to observe Sunday, the 30th March, as a day of humiliation and prayer among the citizens of Delhi, as a protest against the passing by the Government of India, against the unanimous voice of all India, of the Rowlatt Bills.

Before the announcement was made some days back Satyagraha meetings were held at the Congress Park to educate the public in the matter and to prepare them for the coming action. Local vernacular papers carried the announcement far and wide to every household and even women and children were ready to carry out the instructions contained therein. Voluntary workers went over to every shop in the city and persuaded the shopkeepers to close their shops.

On the evening of 29th a meeting was held at the Congress Park at which Prof. Inder, son of Mahatma Munshi Ram after explaining the programme of the coming day read from the Anglo-Indian daily of Delhi, the "Morning Post", a passage misrepresenting the intention of the Satyagraha movement, and assured the audience that it was none of their intention to create trouble and exorted them to be true and pure Satyagrahis.

The next morning, Sunday 30th March, as proposed no shops were opened and the few which were opened here and there were speedily closed at the request of the organisers. People travelling in trams were requested to get down and so were those going on carriages and motors. All this was complete by 9-30 A.M and everything went off quietly for sometime but for the bawling out of knots of idlers here and there when a carriage or a tram car was emptied of its occupants.

After accomplishing their task in the bazars and streets of Delhi some of the over-enthusiastic workers proceeded to the railway station at about half past ten to persuade the station shop-keepers who however refused to close their shops on the plea that they were bound by contract to keep their shops open. There was a *faraca* and some of the plates etc. of the sweet vendors were thrown off when the railway police intervened and took two of the demonstrators in custody. Hearing of this more men hurried to the

railway station and asked for the release of those arrested which was refused. It is said that the sergeants and other railway officers caned them severely. A quarrel ensued resulting in assaults on both sides. Meanwhile the crowd increased and gradually became unwieldy for the police. Intimation was sent to the Additional District Magistrate who arrived at the spot at about 12 with a small military force and **machine guns** and ordered the crowd to disperse They did not heed. The machine gun was fired first in the air and then at the crowd killing a few and wounding more who were at once removed to the neighbouring building. In confusion the crowd withdrew to the Queen's Garden and then to the Clock Tower in Chandni Chowk. Meanwhile more people gathered at the Clock Tower and they tried to get into the garden to form the proposed procession. The military who were guarding the Municipal building in the gardens shot at the crowd with revolvers which again killed a few more and wounded some. The exact number of killed and wounded in all is not definitly known but eight bodies have openly been cremated and more are suspected to have been removed to outstations and cremated there by the military.

When the confussion was going on at the Railway station Mahatma Munshi Ram arrived at the spot and tried his best to reconcile with the authorities. He explained to the audience what had happened and exorted them to have patience and conduct themselves like true Satyagrahis without being excited At this time information was received of the happenings at Chandani Chowk when the crowd became restless. The Mahatma quieted them. Just at that time the military headed by two European officers were seen marching towards the crowd. The crowd began to disperse in confussion when the Mahatma again kept them in control The military meanwhile arrived and began to surround the crowd when Mahatma interviewed the officer who wanted them to conduct themselves peacefully which he assured, provided the military were removed from the scene The officer agreed and and marched off round the park towards Chandni Chowk and after patrolling that street for some time came back again, this time headed by the Chief Commissioner and the District Magistrate, to another place in the park where the audience had shifted owing to increased numbers which by this time grew to more than ten thousand. This time there were no signs of confussion in the crowd. The military were arrayed in order and the officers stood at the edge of the crowd. The Chief Commissioner called the Mahatma who was standing on a platform in the middle, and had a talk with him. On being questioned what this meeting was for, how long it would last and who would be responsible for the orderly conduct of the audience, the Mahatama answered that the meeting was to protest against the passing of

the Rowlatt Bills, that it would last till 6 and that he would be responsible for order provided the military were removed from the place. He then explained to the audience what the Chief Commissioner told him and they in one voice cried out that it was none of their object to create trouble and that they had not done so and that they will not do so provided the military or the police did not interfere with them on their way. The Chief Commissioner assured them about the military and after giving instructions to the officers not to disturb them, marched off. After passing a resolution of protest against the Rowltt Bills the meeting terminated at 6 P. M. and the crowd dispersed.

A portion followed the Mahatma through Chandni Chowk when on the way a Gurkha fired a shot at the crowd which did not hit anybody. Then the Mahatma went near the firer and asked why he shot at the peaceful crowd and in reply the Gurkha threatened to shoot him also pointing his rifle at him. He stood firm and offered himself to be shot. More men pointed their rifles at him when a European officer rushed into the spot and enquired who fired at the crowd and let the crowd pass on peaceably. The night passed on quietly. Not a man dared to walk out, not a carriage was to be seen and the police and the military guarded the streets and the military were posted outside the city throughout the Civil Lines.

Delhi, 31 March 1919.

Next morning people began to clamour for the dead bodies, and pending receipt of the same refused to open the shops. Two out of them were handed over in the morning and were taken in possession to be buried. In the evening five more were given and a huge crowd numbering about ten thousand headed by Mahatma Munshi Ram followed the bodies to the grave.

A body of a Mahomedan who was killed the previous day was removed to an adjacent mosque. The police demanded the body which was refused. They threatened but to no purpose.

Some of the leading gentlemen of the city went to the Deputy Commissioner on deputation to ask for the dead bodies when, it is said, the Dy. Com. Col. Beadon regreted that only innocent men were killed and not those who deserved to be killed.

In the evening a conference of the citizens was held when a Commission of private and independent enquiry consisting of Rai Saheb Piyare Lal, Hazi-ul-Mulk Hakim Ajmal Khan, Rai Bahadur Sultan Singh and others was appointed to record evidence and report, and a committee of about 16 members was also appointed to help them to secure evidence.

Swami Sradhanda's Statement to the Press.

"On Sunday, March 30th, every shop and business place was closed from the morning. Returning from morning service in the local Arya Samaj Mandir, I patrolled through the city. The tramcars had ceased plying because none would use them, and even 'tongas,' etc., had stopped and all was quiet with thousands of peaceful subjects walking on footpaths. I returned to my place after 12 a. m., intending to go to the meeting after four.

"At two o'clock some gentlemen came running from the Railway Station, saying that as some people asked the station shop to close a European railway official came and threatened them. When told it was no business of his to interfere he whistled to the police, who took two men out of the collected masses in custody. The masses said that if their men were given up they would go away. Then the police began to belabour them with a stick. Soldiers with a machine-gun were arriving when they left to report to me.

"I left immediately for the Railway Station. There I heard that the machine-gun had fired indiscriminately and about a dozen had either been killed or wounded, the bodies being dragged into the station yard. Those hit included a railway passenger with one woman. So they said. I saw the Gurkhas coming from the opposite side. The British soldiers were already there. I went to some Europeans, of whom one was Mr. Curry, the City Magistrate, and asked them to tell me the true facts. They treated me with indifference. Mr. Curry actually turning his back upon me. I told him that I was taking the people away to the meeting ground, although early, and he ought not to irritate the people by making a display of the military and machine gun.

"The whole crowd, some 3 to 4 thousands, followed me. Avoiding military cordons we marched through the city. Thousands followed and thousands had preceeded us and about 15 thousands assembled on Congress grounds. The number was swelling and had risen to 25 thousands, and I was addressing them, exhorting them to act like Satyagrahis and to control their sorrow and anger, when intelligence reached that "Gora" soldiers had fired near the Clock Tower and that another dozen or so had been pierced with bullets. Some began to get excited and I again managed to pacify them. But then two British military officers on horseback came on full speed with some Sowers and wanted a talk with me. I went out and asked the officers the meaning of this. I said this was a meeting of peaceful citizens and they were exasperating the people by a show of military aggression. The officer said he would not interfere with the peaceful meeting but a brick bat had just passed him. Neither I nor any other had seen any

brickbat passing. The officer went away with the sowars, saying it was not their object to disperse a peaceful meeting.

Machine gun at the door

"The crowd was becoming huge and after putting up a platform in the middle of the maidan, we removed there. The crowd, some forty thousands, had hardly settled itself, and after extorting them in the name of Satyagrah, I had commenced a prayer to the Almighty when the same sowars came running again with a Mahomedan police officer, Mr. Curry and the Chief Commissioner. In the meantime a machine-gun motor had rattled to the door of the meeting maidan. I had to come down the platform and to go to the Chief Commissioner outside the audience. The Chief Commissioner asked me what we were going to do, and how long the meeting would last. I answered that a resolution of protest against the Rowlatt Bills would be passed to be sent to Mr. Montagu and the meeting would last till 6-30. He asked me about the speakers and names were given. Then he told me that if I gave an assurance that the feelings of the people would not be stirred and that the crowd would quietly disperse to their homes he would not interfere with the meeting. In reply I said I am personally responsible and had been pacifying those whose relatives had been shot and wounded but, if on our way back your military gave trouble again I will not be responsible. The responsibility will rest with you. I explained all the facts and said intelligence came that machine-guns again discharged volleys near the Clock Tower. The Chief Commissioner said in reply that no machine-gun was fired near the Clock Tower. I said in that case I could reassure the people saying that no people had been injured near the Clock Tower. The Chief Commissioner on this quietly said "rifles were fired not machine-gun." Then came an inquiry from me, "was anybody injured?" The reply was "I do not know and therefore cannot say." Then the Chief Commissioner told me to give a message of his to the people to act on the instructions of Mr. Gandhi and create no disturbance. I was all along speaking in a loud voice which thousands heard. Then I mounted the platform again and asked the assembled people categorically about what I had been telling them. They all said that they would never depart from the principles of Satyagraha. Whatever oppression they suffered they would bear with patience. The Chief Commissioner went away, saying that if the meeting dispersed quietly neither the military nor the police would interfere with the meeting. Then the resolution to be sent to Mr. Montagu was adopted unanimously.

"I asked the large audience to follow me and to leave quietly

when near their residence. We were walking in order. When we were nearing the Clock Tower, the Gurkhas were in the middle of the road in double file facing both ways. On seeing us they marched to the right foot board. We thought they had left to enable us to pass but when we came near them a rifle was fired into the crowd. There was a stir and deep tone of resentment but I asked all to halt and they obeyed. In my Sanyasi dress I went up to the foot path alone and asked the Gurkhas why they were firing on innocent and peaceful people. Two rifles were immediately pointed at me and they began saying in a very insolent tone "tum ko chhed denge".—"We will pierce you." I stood quietly before them and said "main khara hun goli chalao," "I am standing: fire." At once eight or ten more rifles were aimed at my breast and insolent threats went on. The crowd could contain itself no longer and was about to rush when a wave of my hand and a short appeal stopped them. But they were saying "let us die and not you, oh let us die" The rifles had remained pointed at my breast for some three minutes when a European approached on horse back. I told him to mark the scene and the rifles at once went down In my presence the European on horseback asked the only policeman present whether he had ordered the soldiers to fire. The policeman denied having ordered firing. I stopped northward and asked the European officer whether he heard the rifle fire ; he impatiently answered that he was enquiring about it. I then left with the people following me.

Then there was a strange sight. A Gurkha came near me, brandishing his naked khukhri right and left No one being cowed down he left. The machine-gun motor was rattling away encircling us with the gun constantly pointed at us and with the hand of the gunners on it. The crowd was neither cowed down nor impatient. At Fatehpuri I sent many of them home. Again many followed till I reached my place when all Hindus and Mohammadans took affectionate leave.

"I have no sense of resentment against the military or Government officials. But those whose relatives have been murdered or wounded are inconsolable and in the whole population of Delhi there is a sense of insecurity and complete distrust in the justice of the officers in charge. A helpless people, specially imbued now with Satyagraha principles, will keep quiet but this shedding of blood on a bloodless day will not pass unnoticed by the Master of the Universe. My message to my countrymen is " Celebrate 6th April with prayers and humiliation before the throne of the Father Spirit, but do not be deterred for fear of military force to hold mass meetings. The resolution against the Rowlatt Bills must go to the King-Emperor from every nook and corner of India."

Mahatma Gandhi on Delhi Tragedy.

Mahatma Gandhi was about this time touring in Madras and South India. He heard and read only scrappy accounts of the Delhi disturbance in the newspapers while in the train *en route* to Bombay. On reading Swami Shraddhananda's statement he wired to him a message of congratulation and said :—

"*In opposing the Rowlatt Legislation we are resisting the spirit of terrorism lying behind it. It is no easy task. We have to give much more such innocent blood as Delhi gave.* It is unnecessary for Delhi to fast again on next Sunday."

When the full news of the Delhi tragedy reached M. Gandhi who was then at Bombay (April 4), he at once issued the following letter to the press :

It is alleged against the Delhi people assembled at the Delhi Railway Station (1) that some of them were trying to coerce sweetmeat sellers into closing their stalls ; (2) that some were forcibly preventing people from plying tramcars and other vehicles ; (3) that some of them threw brickbats ; (4) that the whole crowd that marched to the station demanded the release of men who were said to be coercers and who were for that reason arrested at the instance of the railway authorities : (5) that the crowd declined to disperse when the Magistrate gave orders to disperse.

I have read Sanyasi Swami Shradhanandji's account of the tragedy. I am bound to accept it as true, unless it is authoritatively proved to be otherwise, and his account seems to me to deny the allegations 1, 2 and 3. But assuming the truth of all allegations it does appear to me that the local authorities in Delhi have made use of a blacksmith hammer to crush a fly. On their action, however, in firing on the crowd, I shall seek another opportunity of saying more. My purpose in writing this letter is merely to issue a note of warning to all Satyagrahis. I would, therefore, like to observe that the conduct described in the allegations 1 to 4, if true, would be inconsistent with the Satyagraha pledge. The conduct described in allegation 5 can be consistent with the pledge. but if the allegation is true, the conduct was premature, because the committee, contemplated in the pledge, has not decided upon the disobedience of orders that may be issued by the Magistrate under the Riot Act. I am anxious to make it as clear as I can that in this movement no pressure can be put upon people who do not wish to accept our

suggestions and advice, the movement being essentially one to secure the greatest freedom for all. Satyagrahis cannot forcibly demand release of those who might be arrested, whether justly or unjustly. The essence of the pledge is to invite imprisonment and until the committee decides upon the breach of the Riot Act, it is the duty of Satyagrahis to obey, without making the slightest ado, Magisterial orders to disperse, etc,, and thus to demonstrate their law-abiding nature. I hope that the next Sunday (Ap. 6th) at Satyagraha meetings, all speeches will be free from passion, anger or resentment. The movement depends for its success entirely upon perfect self-possession, self-restraint, absolute adherence to truth and unlimited capacity for self-suffering. Before closing this letter, I would add that in opposing the Rowlatt Legislation Satyagrahis are resisting the spirit of terrorism which lies behind it and of which it is a most glaring symptom. The Delhi tragedy imposes an added responsibility upon Satyagrahis of stilling their hearts and going on with their struggle until the Rowlatt Legislation is withdrawn.

Government Account of The Delhi Disturbances.

On 3rd April the Government of India, Home Department, issued the following Press Communique.

As misleading accounts of the disturbances in Delhi on Sunday, the 30th March, appeared in certain newspapers, the following summary of the official report received from the local administration is issued for general information :—

The shops in the city generally were closed on Sunday morning as a protest against the passing of the Rowlatt Bills. Those shopkeepers who opened their shops were induced to close them at an early hour by 10-30 a. m. The crowds in the streets were making efforts to extend the *hartal* to the tonga-drivers and to compel all passengers to walk. The usual police precautionary measures had been taken, and all the reserves in the police lines and at the various stations were in readiness. About 1 or 1-30 p.m. a large crowd assembled outside the railway station and some persons entered and attempted to prevent the Railway contractor who supplies food to the third class passengers from carrying out his duties and to make him observe the *hartal*. On the contractor's refusal, he was assaulted and the railway police and staff arrested two of his assailants. Several hundred men of the mob, which had

collected outside, invaded the station with the object of rescuing the two men who had been arrested. A complete stoppage of the work of the station was thus threatened. The station was cleared by the police, assisted by various British soldiers who happened to be present on the platform and by a party of 250 Mainpuris on their way home from Mesopotamia, who were in a train in the station yard. As, however, the attitude of the mob outside the station was very threatening and the station authorities requisitioned help from the Fort, a party of some 20 to 30 British Infantry were sent from the Fort to the Station. The Superintendent of Police arrived on the scene with a few mounted constables at about 2 p.m., and found his Foot police under the command of the Assistant Superintendent and a party of 20 to 30 British Infantry surrounded by a shouting mob on the Queen's Road in front of the Railway Station. The mob was so close to the men protecting the station gates that one of them attempted to snatch a rifle from a British Infantry-man, and was wounded with the bayonet. To relieve the pressure, the Superintendent of Police charged the crowd with his mounted men, and drove them into the Queen's Garden and down the road to right and left. For sometimes the rioters had been throwing stones and bricks at the police and soldiers and, among others, the Additional District Magistrate, the Superintendent and Assistant Superintendent of Police and the District Traffic Superintendent were struck on their helmets. After the police and military had been contending with the mob for nearly a couple of hours, without succeeding in driving them off, the Additional District Magistrate and the Superintendent of Police came to the conclusion, about 2/30 p.m., that further postponement of sterner measures would only lead to an infinitely greater bloodshed. An order to fire a couple of rounds was therefore given. Two of the rioters fell. The remainder broke and the police and infantry were then able to drive them back through the Queen's Garden which was cleared in about half an hour. Pickets were placed up to the Town Hall, the Mainpuris already referred to being utilised to line the road round the Queen's Garden. The crowd maintained its threatening attitude in the Chandni Chowk and the Superintendent of Police, on riding up, after hearing a couple of shots from the direction of the Town Hall, found about 15 British Infantry and 15 Policemen being heavily stoned. The mob surged over the railing into the Queen's Garden. It appeared inevitable that some of the police and infantry would soon be seriously injured, and as the attacks of the mob continued the order to fire on them was given. Two or three rounds per man were fired, and three men were seen to fall, but others were probab-

ly hit. This ended the trouble and the rioters dispersed. So far as has been ascertained, eight men were killed and some 12 or 13 have been treated for wounds at the Civil Hospital. In spite of the rumours and newspaper reports to the contrary, none of the killed were boys, and though an armoured car was sent from the Fort, the machine gun in it was not fired. The squadron of the Cavalry which had been sent for from the new Cantonment arrived in the City after the rioters had dispersed. In the opinion of the local administration the Police and the British Infantry employed to scatter the rioters behaved with great restraint, and a very sudden and akward situation was tackled with great firmness by the Additional District Magistrate and the Superintendent of Police.

Another Communique issued from the Government of India *dated Simla. Apr. 5,* said : There is reason to believe that misleading accounts of the effect of the Anarchical and Revolutionary Crimes Act (commonly known as the Rowlatt Bills) are being circulated among the more ignorant sections of the population. Thus in Delhi it is reported that large sections of the populace believed that the Act empowers any police officer to arrest, without a warrant, any three Indians whom he may see engaged in a conversation and to enter and search without a warrent any house. These beliefs sedulously propagated by evilly disposed persons and allowed to pass uncontradicted by others doubtless account largely for the high state of excitement prevalent among the crowds that came into conflict with the police and military at Delhi on the 30th March with fatal results. It is hardly necessary to state that the Act contains no provisions of the nature indicated, it confers no powers of arbitrary arrest or search on the police, and the only reference it contains to arrest or search is in Section 34 (1) which authorises the arrest on the written order of the Local Government of a person where there are reasonable grounds for believing that he has been or is concerned in certain serious offences in any area to which Part 3 of the Act has been extended. The same Section permits the search, under similar authority, of any place in such area believed to have been used by such person for any purpose connected with an anarchical or revolutionary movement. No part of the Act is as yet in force, nor can any part be brought into force within any Province or area unless and until the Governor-General in Council is satisfied that anarchical or revolutionary movements are being promoted in such Provinces or areas.

Col. Beadon's action

On April 4th Col. Beadon, the Deputy Commissioner, held an informal meeting with the leading citizens of the town to discuss what steps should be taken to prevent a repetition of the unfortunate happenings of the 30th March. A large number of gentlemen responded to his invitation, and this included three members of the non-official Commission of Enquiry which was set up by the Citizens to make a searching enquiry of the unhappy events and report thereon, namely, Khan Bahadur Hakim Ajmal Khan, Rai Saheb Piarey Lal and Rai Bahadur Sultan Singh.

In opening the proceedings Colonel Beadon said that there were rumours of another strike on Sunday next and he sought their co-operation in inducing the people not to strike, and, further more, if some persons persisted in striking to take such steps as would prevent rioting He said that he proposed to issue hand-bills which he asked the gentlemen present to distribute broadcast. He read out the text of the hand-bill which was in the vernacular. The following is a translation :—

The Hand-bill.

"You have all heard of the rioting which took place on Sunday, the 30th March, with the unfortunate result that some eight persons were killed and more have been wounded. For this reason I publish the following : On that day, certain persons had determined to close their shops as a sign of protest against the Act which had been passed by the Supreme Government to prevent murderous outrages and anarchical crimes and to protect the public from such criminals. Those persons who organised this protest concealed the fact that, though the Anarchical and Revolutionary Crimes Act had been passed by the Imperial Council, it is not actually in force, and no part of it can be brought into operation, unless and until the Governor General-in-Council publishes a notification declaring that he is satisfied that any part or parts of India, in which it is to come into force, anarchical or revolutionary movements are being promoted and certain serious offences connected therewith are prevalent to such an extent that special procedure for their repression prescribed by the Act is necessary to ensure public safety. It should be known to you that at present the Act is not in force in any part of India, and it is the hope of the Government that it will never be necessary to enforce it. The action of the Government in passing the Act is

merely that of a prudent house-holder who keeps buckets full of water to put out fire if one takes place, or a Zamindar who sleeps on his threshing floor when wheat has been reaped to prevent its being stolen. Citizens of Delhi have no need to anticipate that the enforcement of the Act will be necessary here. What reason is there then for the excitement which has been aroused thus? The strike was foolish and unnecessary. Those who had determined to close their shops, took the law into their own hands, and prevented other shop keepers by threats from opening their shops. The result was that the bazaar was closed, and many people were idle, and a crowd of budmashes created a disturbance at the Railway Station. The so-called Passive Resistance turned at once into active rioting, which the Sircar cannot allow. Those who created the strike are entirely to blame for creating a situation which they could not control. Be warned by this notice not to be deceived by persons who wish to compel you to close your shops. If you close your shops, you hurt yourselves, you may hurt innocent victims, but you do not hurt the Sirkar. If any one forces you to close your shops, get their names recorded at the nearest Thana. The Sirkar cannot help you unless you help the Sirkar in this way. Now that the city is quiet again, do not agitate yourself, and cause more trouble to your relatives and fellow citizens. The Sirkar, as you know, has no wish to see riots or to have to use force to repress riots. I want you all to realise how much we, the Government servants, deplore that men should have been killed and wounded. I am therefore asking the Raises of Delhi to raise subscriptions for the wounded and their dependents."

After this notice was read, Col. Beadon asked the meeting if they would propose any other measure.

Dr Shroff said, so far as he had learnt, there would be no strike on Sunday next. He had obtained this information from the Satyagraha Camp. Asked if the strike occurred the Satyagrahis would be able to stop it or prevent rioting, he replied he was not in a position to reply.

Rai Bahadur Sultan Singh said the Satyagraha Executive Committee had decided that there should be no second strike on Sunday 6th April as all realised that only evil and no good could come out of it. They however proposed to hold a public meeting that evening, and he desired to know if they would be allowed to do so in the Queen's Garden or in the grounds near the Fort.

Col. Beadon said that this matter was beside the object of the meeting, and a proper application should be made for the purpose. He asked in if any one would come forward to help preventing riots in case they occurred, but no reply was forthcoming. The members however said they would appoint a Sub Committee to collect funds for the wounded. The meeting then dispersed.

Reply to Col. Beadon.

In reply to the Beadon Handbill the following counterblast was issued by Mr. K. A. Desai, Secretary, Satyagraha Sabha, Delhi, and addressed to the redoubtable Colonel:—

DEAR SIR,—After carefully reading the notice read out to the assembly convened by you in the Town Hall on the 4th of April 1919 and subsequently issued presumably under your orders to the public of Delhi, the Executive Committee of the Satyagraha Sabha Delhi feels constrained in the public interest to reply to certain reflections against the said Sabha contained in the notice referred to above, in order to remove the misunderstanding that it is likely to create and to counteract the attempts that are being assidously made in certain quarters to screen the mistakes of certain subordinate Govt. officers in connection with the recent unfortunate incidents and to point out their responsibility on unoffending public workers.

(1) The assertion contained in your notice that the persons who advised to give expression to public indignation concealed from the public the fact that the Act No. 11 of 1919 would be applicable in special circumstances and only after a notification by the Governor-General-in-Council to that effect. It is submitted that the workers of the Satyagraha Sabha had explained to the public all the aspects of the act sought to be repealed in three meetings held before the Sunday demonstration. They had at the same time placed before the public in the said meetings the contentions and arguments advanced by the Non-Official members of the Imperial Legislative Council against the passing of the said Act. It appears to the Committee that the notice issued under your signatures was prepared without carefully reading the speeches delivered by all the Non-official members of the Imperial Legislative Council and without obtaining a correct report of the speeches made at the meetings held under the auspices of the Satyamraha sabha on the 24th, 27th and 29th March 1919. The Comgittee does not believe that the report of the said speeches did not reach you. All that it submits is that a very incorrect and distorted account of them was supplied to you which ledy ou to arrive at incorrect conclusions and held the citizens of Delhi

and their leader, especially the members of the Satyagraha Sabha, responsible for the unfortunate incidents of Sunday the 30th March.

(2) In your notice you also mention that the Rowlatt Act is not applicable to Delhi and it is hoped that there will be no occasion to apply it to Delhi. Consequently in your opinion the closing of the shops was foolish and a silly decision. We feel it our duty to make it clear that the people of India object to the principle underlying the Act. The Act also presupposes that the whole of the country is rife with anarchical societies, necessitating the use of such stringent and harsh laws. We respectfully but firmly submit that considering the unimpeachable attitude of the country as a whole in the past, suspicions of this nature constitute an insult to its population. It is the feeling of this insult and indignation which is sought to be expressed in the meetings, speeches, and demonstrations from one end of the country to the other, that it may be brought home to the Government that the people cannot bear the breach of the principles of justice involved in the passage of the Rowlatt Act. To designate the purely constitutional efforts of the people as "futile and silly" is not only an insult of the people of this Country but it is an insult offered to the fundamental principles on which rests the entire structure of the British Empire and of which our rulers are justly proud.

(3) The third misstatement which we feel our duty to contradict is that threats were used to force people to close their shops. It is impossible to conceive that a handful of men however influential would have succeeded in organising such a large demonstration if the people themselves had not willingly co-operated with them in the task. You must be aware of the failure that attended the efforts made by the leading citizens of Delhi and the members of the Satyagraha Sabha to prevent people from closing their shops on the 31st March, 1919. It is not intended to deny that some people might have expressed over-enthusiasm in their efforts to induce the public to close their shops which in a case or two might have resulted in unpleasantness. But it is absolutely unjustifiable and incorrect to represent it as forcing people to close their shops. In this connection we may be permitted to point out that it is against the fundamental principles of the Satyagraha Sabha and that the sabha cannot possibly violate its basic principles.

(4) The fourth statement in your notice is that the people who assembled at the station and were finally without any cause fired at were ordinary badmashes and rioters. You also assert

that no boys were killed or wounded near the station or Clock-tower. We may be permitted to say that it is incorrect and against facts. We feel confident that if the Government appoints an impartial Committee to investigate and inquire into the whole unfortunate affair it shall bear out our statement and it would be seen how many boys were killed or wounded by the firing of the police and military.

(5) The fifth incorrect statement in your notice is that the persons who suggested the closing of the shops are responsible for all these developments. We do not know on what arguments and facts the Government relies for this statement, but we beg to draw your attention to the fact that while the Government (according to its own statement) failed to restore order even after the free use of rifles and bayonets at the railway station where not more than five thousand are said to have been present, a few members of the Satyagraha sabha succeeded in controlling and peacefully dispersing an audience estimated at 20,000 to 25,000 people on the 30th of March in the People's park in spite of the provocation which the display of bare swords and bayonets, rifles and machine guns naturally causes. Can any man after seeing this attitude of the Satyagrahis rightly hold them responsible for the bloodshed on the 30th of March? Without the least intention of delivering a hasty judgment we respectfully submit that the responsibility of all this affair lies on the Government officials who, even if it be conceeded that a few mischievous urchins flung a few stones at the police, replyed to the stones of boys by rifles, bullets, and the bayonets of the police and military. Officials who were panic stricken by the ordinary noise and clamour natural on such occasions irresponsibly made innocent people the target of rifles and thought it necessary to contradict by facts and argument the allegations made by us. But if Government considers that no blame attaches to them in this matter it should establish its innocence in order to remove the possibility of all future misunderstanding.

(6) As regards your advice to the people not to close their shops and to report the name of persons who might compel them to do so to the nearest police station, we beg to point out that the Executive Committee of the Satyagraha Sabha has already decided that in view of the fact that they have already done so on the 30th of March that no such demonstration should be held on the 6th of April. Even Mahatma Gandhi has sent a notice to that effect which is binding on every Satyagrahi. But if your advice implies that it is illegal to persuade or induce any shop-keeper to close his shop we must emphatically protest against this unjust interference with the legitimate rights of the

people. After this rebuking and expression of displeasure you have been pleased to announce your intention of requesting the leading citizens of Delhi to raise funds for the help of the wounded and families of the killed. It is very kind of you to express such care and solicitude for the welfare of the people and we thank you for the humanitarian motives which prompted that decision. Need we point out that the citizens of Delhi have already started a fund for the relief of the wounded and sufferers and a memorial of those killed and it is hoped that the citizens shall give practical proof of their sympathy and sacrifice. It is therefore superfluous to appeal to the Raises of Delhi when the general public has already taken up the work as a duty they owed to God.

In conclusion we may be permitted to say that our conscience is clear, our convictions are unshaken, we stand on the path of truth. Whatever we are doing we consider it our duty and in future whatever we shall do we shall be guided by the best interests of our people and our country. We are neither seditionists nor disturbers of peace. We are neither conspirators nor rebels. Our crime, if crime it can be called, is that we do not permit any interference with our legitimate rights and consider it the duty of every self-respecting man to be prepared for every kind of sacrifice for the defence of Right and Justice. In the end we pray to God that he may grant wisdom to our rulers and help us in our righteous cause.

Delhi after 30th March.

31st March saw Delhi *en masse* in mourning. Funeral processions, carrying biers of those fallen on the preceding day, attended by tens of thousands in hushed agony of mourning, marched to the graveyards and cremation grounds of Muslims and Hindus respectively with a solemnity never to be forgotton. It was not until after much praying and soliciting and mainly through the kindness of Mr. Barron, the Chief Commissioner, that the dead bodies were recovered. The military, however, were not unmindful of their duty of "keeping peace and order" and rattled with their machine guns in the rear of the processions. Thus passed the 31st of March with mourning on one side and righteous exultation on the other.

Next morning the local leaders went round the Bazars and exhorted people to resume business; after much pursuasion shops were opened but soon closed on the appearance of the military near the Clock-Tower. Rumour ran afoot that there will be another firing. The popular leaders who had ever since been untiring in their efforts to pacify the crowd and dispel false fears, both on the part of the Police and the people, requested the authorities not to exasperate the despairing people by a show of the Military, and pointed out how they had detected several spies and hirelings haranging the crowd with a view to further excitement. The military was then withdrawn and for the next two days business ran as usual.

Then came the April 4th meeting under Colonel Beadon, a man disliked by the people of Delhi as being solely responsible for much of their suffering and travail. This was the man who, it was said, systematically misrepresented, slighted and insulted the popular leaders, not excepting the most revered and influential residents, callously scotched popular feeling, paraded before all the might of the Sirkar and the Police, and kept Delhi under the heels of the military. His was the percussion which constantly kept on popular feeling bursting in little explosions. On his approach shops closed, on his sight people fled. The popular feeling was that under his ample powers flourished all the infamous breed of C. I. D. underlings and spies, ever widening the gulf between the authorities and the people. On the same day (4th April) about 30,000 Hindus and Mahomedans assembled in the Jumma Musjid to pray for peace to the souls of the beloved innocents who fell a martyr on the 30th March last. The Machine gun and armed military were in front making aggressive demonstrations regardless of the solemnity of the occasion. Hindus and Mahomedans joined hands and prayed and mourned together. The blood of the Martyrs at last cemented their hearts after all these years of disillusionment as to their fundamental antagonism.

The All-India Hartal

Sunday, 6th April, 1919.

Then came the Great Hartal of April 6th, set in motion by Mahatma Gandhi, and memorable in the history of Indian Nationhood as the day of political purification of a people long suffering from the sins of their fathers From Simla to Cape Comorin, from Calcutta to Bombay, in the capital cities and in the mofussil towns, people in a body suspended their daily avocations, passing it in fasting and bathing, in pujas and prayers, and organising meetings to deplore the sad predicament of the country with black clouds, like the Rowlatt Act, threatening and thickening on all sides. Prayerful protest meetings were held everywhere, attended by thousands in the mofussil and by hundreds of thousands in the big cities, imploring His Majesty not to allow the Black Act to sully the fair name of a peaceful country and its people. If Authority had in their moment of triumph in the last War forgot themselves so far as to disregard the prayers of a law-abiding, dutiful, peaceful nation—one-fifth of the whole race of mankind—who had done their utmost and had been "bled white" in the cause of the allies in the late World War, the insult at least of passing a legislative measure in the manner in which the Black Act was passed, was too great to go by without protest. Good or bad, people had their leaders, good or bad, they had their views, and the spectacle of a modern Government passing a repressive measure at a time of peace and expectant prospect of all-round reorganisation, recalled the memory of all that had led to the recent world-conflagration, and stiffened the resolve of all right men to see an end of Junckerdom. All sections of the people, even so non-political communities as Marwaris and Parsis, rich and poor alike, observed the day in a manner which falsified all chauvinistic apprehensions of an old world Government and its adherents that all mass meetings of the people on political matters are bound to create trouble. This was a day of National humiliation, and wherever there was the least interference of that self-conscious body of men called the Indian Police, there was the least disturbance. In fact, the movement itself sprang so spontaneously from the heart of the masses and so little depended on the agitation of the usual political engineers that there was nothing left to the authorities but merely to look on, just as they do on such occasions as the Mohurrum and Durga Puja. National Protest day thus came to acquire a religious meaning.

Delhi.

Inspite of the manifesto issued by the Satyagraha sabha urging the citizens not to observe another *Hartal*, all shops were closed on this day and all business was stopped. In order that idle people may not get out of control the leaders then organised various meetings to keep the people occupied. In the morning several thousands assembled at the Fatehpuri Mosque to pray for the dead. At noon a huge meeting of over 25,000 people was held in the Edward Park and there were lectures on Satyagraha and Swadeshi, and people were exhorted to be true Satyagrahis, to restrain themselves even under the most trying situations and not to feel any resentment. In the evening a monster Satyagraha meeting, unprecedented in the annals of Indian political life, attended by over a lakh was held under the presidentship of Dr. Ansari in the compound of his house. A large number went back disappointed for want of accommodation. The road from Daryaganj to Jumma Mosque, about half a mile, was one solid mass of humanity. Speeches were delivered from eight different platforms. The doctrines of Satyagraha were fully explained and the audience was exhorted to follow them scrupulously and obey the orders of Mahatma Gandhi. The Resolution condemning the Black Act and urging the Secretary of State to disallow it was reaffirmed. The people's behaviour throughout the day was exemplary; not one unpleasant incident was recorded, establishing beyond doubt that the attitude of the authorities on 30th March was due to nervousness, to their incapacity, and want of tact. A telegram from Mahatma Gandhi enquiring if relief was needed for the sufferers and wounded was read. Towards the close a donation of Rupees one lakh from Seth Raghunath for a memorial hall for the martyrs was announced by Swami Shradhanand.

Calcutta.

The hartal was observed in Calcutta in a scale hitherto unparallelled. The genuine enthusiasm that pervaded not only the upper ten but also and more directly the masses to express their united protest against the Rowlatt Bills was a clear indication of a sensitive National feeling gradually lifting its head among the people. There was very little of propaganda, save the usual notice in the newspapers, and very little of persuasion for observing the day of mourning, and still all the shops, markets, Bazars and places of business from one end of the town to the other were closed spontaneously. Even the drivers of carts and carriages in a body observed the hartal. People were seen forming Sankirtan

parties and hurrying towards the river for the customary bath on holy occasions.

In the afternoon thousands of people headed by the Nationalist leaders marched in procession from the different quarters to the Maidan, singing National songs of sorrow and humiliation with occasional outbursts of "Bande Mataram." The processions met at the foot of the Monument. By 5 P. M. the maidan was a vast sea of human heads; the number might have been anything between one and two hundred thousand. At 5 30 P. M. the meeting began. One platform for this vast audience was impossible, and a dozen new ones were improvised. There were all classes of people, except the aristocracy, titled gentry and the place hunter Moderates. It was a mass meeting in the true sense of the term. There were tens of thousands of Mahomedans, and Marwaris along with the Bengali Hindus. Mr. B. Chakraverty, the Nationalist Leader of Bengal, was voted to the chair. In his address he drew the attention of the audience to the famous Queen's (Victoria) Proclamation: "we hold ourselves bound to the Natives by the same obligation of duty which bind us to all our other fellow subjects" and to the Coronation announcement of King George V assuring Indians "of the maintenance of your rights and your privileges", and pointed out that the Government of India Act 1915 S. 65 gave statutory sanction to our rights and liberties. There it was provided that the Governor-General in Legislative Council had not the power to make any law affecting any part of the unwritten laws of the British Constitution whereon may depend in any degree the allegiance of any person to the Crown. He explained how the fundamental rights of Indians as British Subjects were being violated by the Govt. since 1907, the beginning of a long and tortuous era of repression, and reminded the audience Mr. Gandhi's injunction of non-violence in speech and action which must underlie their uncompromising protest to the recent Rowlatt Act. He ended by saying: —"My countrymen of the land of Dhruba, Prahalad and Kabir, I am addressing you on this occasion without passion, without resentment, without anger, and in perfect self-composure. My message to you to-day is this: "Seek ye the righteousness of God and all else will be added unto thee."

"Bear any abuse, any insult, any violence, any suffering even unto death without hatred, without resentment as brave men, as martyrs, determined to maintain the truth at any cost. Remember you are resisting the spirit of terrorism by soul-force and by the grace of God victory will be yours."

A resolution was thereupon passed beseeching His Majesty to withhold his assent from the Act.

The meeting then ended and the people dispersed with the Kirtan parties. So far nothing unseemly occurred anywhere with this huge concourse of people. The ubiquitous and interfering Police was nowhere much in evidence and this made it possible for such a vast meeting to pass off peacefully. In the evening however an incident occurred which but for the Satyagraha spirit of the people might have produced great unpleasantness. One of the Kirtan parties while passing opposite the Bristol Hotel received a shower of missiles thrown from the upper stories of the Hotel. There were Sahibs, it is said, mocking and jeering at the crowd below. There was a stir and for a time it seemed that Satyagraha was under a test. At this time Moulvi Akram Khan, Editor of the " Mahammadi ", and several other gentlemen exhorted them to remember Gandhi and their Satyagraha, to behave like Satyagrahis and begin to learn to pocket this insult calmly which was a prelude to many more which a satyagrahi must expect, and prove themselves true to their creed by passing this test. The people thus pacified then moved on.

The Bristol hotel incident clearly showed the mentality of a section of the Anglo Indians. After abusing the crowd from the upper stories and throwing dirty water and wine bottles at them, they excited the crowd to rowdyism and at once telephoned the police and military for help and in holy horror put out the lights. On the part of the excited crowd, however, a few stones were thrown which broke the arc lamp, exemplifying satyagraha in practice, but this was promptly stopped. Even thus are Indian mobs tempted to excess !

A special feature of the demonstration was an all-day fast and worship of several thousand Hindus at the Kalighat temple, with the usual ceremonial of *Puja, Chandipath, Hom* and animal sacrifice.

Bombay.

Since 6th April daybreak nearly all shops and all transports except railways, tramways and some bullock carts stopped working. Huge crowds assembled from the early hours totalling about a lakh who had their bath in Chowpaty and joined a mass meeting on the sands convened to protest against the Rowlatt Act. It was attended by all leaders of the movement including Mr. Gandhi, Mr. Horniman, Mrs. Sarojini Naidu and many others. Mr. Jamnadas Dwarakadas was the first to address the meeting and speaking on behalf of Mr. Gandhi pointed out that it was Mr. Gandhi's injunction that Swadeshi and this Satyagraha movement against Rowlatt Act should not be mixed up. Referring to the late Delhi tragady Mr. Gandhi said : We have two authoritative versions of the episode. One was Swami Shraddanandji's, stating the people's version, the

other was of Government justifying the action of the local authorities. The two did not tally, they differed as to some main particulars. An impartial observer will regard both as spurious statements. I beg of the popular party to assume for purposes of criticism the truth of the official narrative but there are remarkable gaps in it amounting to the evasion of charges made against local authorities by Sanyasi Shraddanandji. His statement was first in the field and he was on the scene immediately after the shooting incident near the railway station. If the Government had sought co-operation of the natural leaders to regulate the crowd there would not have been any need to display or use the military force. Even if the official version was correct there was no justification to fire on the innocent people. The people were entirely unarmed and at the worst, what would they have done? In any other place but India the police would have been deemed sufficient to meet an emergency of the Delhi type armed with nothing more than batons. He then related how in 1897 at Durban a mob of 6000 Europeans bent upon lynching an innocent victim, threatened destruction of property worth £20,000 including the lives of nearly twenty men, women and children and how a dozen police, though they would have been justified in calling military aid, contended with the crowd themselves and succeeded in peacefully dispersing it. The Delhi crowd had not any intention of hurting anybody. It threatened to do nothing, except as alleged it refused to disperse. The authorities could have peacefully regulated the crowd; instead they have followed the customary practice of calling the military on slightest pretext. He did not want to labour the point. It was enough the crowd hurt nobody and were neither overawed nor infuriated. It was a remarkable incident that people were sufficiently firm and self-possessed to hold a mass meeting of 40,000 after the shooting incidents and it covered the Delhi people with glory. He has always emphasised that people who took part in the struggle against the Rowlatt Act will be self-possessed and peaceful, but he has never said that people will not have to suffer. Mr. Gandhi further said that to the Satyagrahis such suffering must be welcome. The sterner they were the better. They had undertaken to suffer unto death. Sanyasi Shraddanandji has wired saying that 4 Mahomedans and 5 Hindus had so far died and that about 20 people were missing and 13 persons were in hospital being badly wounded. **For Satyagrahis it was not a bad beginning.** No country had ever risen, no nation has ever been made without sacrifice and we were trying an experiment of building up ourselves by self-sacrifice without resorting to violence in any shape or form. That was Satyagraha. From Satyagraha standpoint the people's case in Delhi was week in that the crowd refused to disperse when asked to do so and demanded the release of the two arrested men. Both acts were wrong. It was arrest and im-

prisonment they sought for by resorting to civil disobedience. In this movement it was open to Satyagrahis to disobey only those laws which are selected by the Committee contemplated in the pledge. Before being able to offer effective civil disobedience, we must acquire habits of discipline, self-control and qualities of leadership and obedience. Till these qualities were developed and till the spirit of Satyagrahis has permeated large bodies of men and women, Mr. Gandhi said, he had advised that only such laws as can be individually disobeyed should be selected for disobedience as while disobeying certain selected laws it was incumbent on the people to show their law-abiding character by respecting all other laws.

Then two resolutions were passed one expressing sympathy with the people of Delhi and the other praying the Secretary of State to advise His Majesty to exercise the right of veto regarding the Rowlatt Acts, and to withdraw the Rowlatt Bill. While the meeting was proceeding a number of Mahomedans came in prossession and joined. After Mr. Gandhi's message was delivered a procession was formed in which all communities participated, and proceeded to Madhav Bag to offer prayers, after which the crowd dispersed. For the first time to-day, no distinction was made to allow Mahomedans and Parsis along with Hindus entrance within the precincts of Madhav Bag which is exclusively meant for Hindus.

Sale of Proscribed Literature at Bombay.

Next day the Satyagraha Committee advised that for the time being laws regarding prohibited literature and the registration of newspapers may be civilly disobeyed. Accordingly a number of copies of the *Hind Swarajya*, the *Sarvodaya* or *Universal Dawn, the Story of a Satyagrahi*, all by Mahatma Gandhi, and the *life and address of Mustafa Kamel Pasha* were publicly offered for sale. The hawkers were all prominent Satyagrahis among whom were Mahatma Gandhi himself, Mrs. Sarojini Naidu, Mr. Sobani, Mr. Lakhimdas Tairsee and others. All the books sold contained the signatures of the hawkers A number of unregistered newspapers mostly resembling the ordinary posters and leaflets, both in print and Gujaratti handwriting, were also sold. Mr. Jamnadas Dwarkadas sold copies near the Stock Exchange and many copies were bought at a fancy price, people paying Rs. 10 to Rs. 100 for the leaflets.

Mahatma Gandhi and the Secretaries of the Satyagraha Sabha issued a long notice in this connection to the effect that Satyagrahis should receive copies of prohibited literatures for distribution. A limited number of copies can be had from the Secretaries of the Satyagraha Sabha. Satyagrahis should, so far as possible, write their names and addresses as sellers, so that they may be

traced easily when wanted by the Government for prosecution. Naturally there can be no question of a secret sale of this literature. At the same time there should be no forwardness either in distributing it. It is open to Satyagrahis to form small groups of men and women to whom they may read this class of literature. The object in selecting prohibited literature is not merely to commit a civil breach of the law regarding it, but it is also to supply people with a clear literature of a high moral value. It is expected that the Government will confiscate such. Satyagrahis have to be as independent of finance as possible. When, therefore, copies are confiscated, Satyagrahis are requested to make copies of the prohibited literature themselves or by securing the assistance of willing friends and to make use of it until it is confiscated by giving readings to the people from it. It is stated that such readings would amount to the dissemination of prohibited literature. When whole copies are exhausted by dissemination or confiscation, Satyagrahis may continue the civil disobedience by writing out and distributing extracts from the accessible books.

Publication of Satyagraha Newspapers.

Regarding the civil breach of the law governing the publication of newspapers, the idea is to publish in every Satyagraha centre a written newspaper without registering it. It need not occupy more than one side of half a foolscap. When such a newspaper is edited it will be found how difficult it is to fill up half a sheet. It is a well known fact that a vast majority of newspapers contain much padding. Further, it cannot be denied that newspaper articles written under the terror of the very strict newspaper law have a double meaning. A Satyagrahi, for whom the punishments provided by law have lost all the terror, can give only in an unregistered newspaper his thoughts and opinions, unhampered by any other consideration than that of his own conscience. His newspaper, therefore, if otherwise well edited, can become a most powerful vehicle for transmitting pure ideas in a concise manner, and there need be no fear of inability to circulate a hand-written newspaper, for it will be the duty of those who may receive the first copies to recopy till atlast the process of our multiplication is made to cover, if necessary, the whole of India, and it must not be forgotten that we have in India the tradition of imparting instruction by oral teaching.

The unregistered newspaper, the *Satyagrahi*, which Mahatma Gandhi as the editor, issued on the 6th in defiance of the Indian Press Act, was a small sheet of paper sold for one pice. It said. "The editor is liable at any moment to be arrested,

and it is impossible to ensure the continuity of publication until India is in a happy position of supplying editors enough to take the place of those who are arrested. It is not our intention to break for all time the laws governing the publication of newspapers. This paper will, therefore, exist so long only as the Rowlatt Legislation is not withdrawn."

In this connection M. Gandhi issued the following instructions.

Mahatma Gandhi's Instruction to Satyagrahis.

"We are now in a position to expect to be arrested at any moment. It is, therefore, necessary to bear in mind that if any one is arrested, he should, without causing any difficulty, allow himself to be arrested, and, if summoned to appear before a Court, he should do so. No defence should be offered and no pleaders engaged in the matter. If a fine is imposed with the alternative of imprisonment, the imprisonment should be accepted. If only fine is imposed, it ought not to be paid; but his property, if he has any, should be allowed to be sold. There should be no demonstration of grief or otherwise made by the remaining Satyagrahis by reason of the arrest and imprisonment of their comrade. It can not be too often repeated that we court imprisonment, and we may not complain of it when we actually receive it. When once imprisoned, it is our duty to conform to all prison regulations, as prison reform is no part of our campaign at the present moment. A Satyagrahi may not resort to surreptitious practices. All that the Satyagrahis do can only and must be done openly."

Madras—6th April.

Madras celebrated the Satyagraha day as peacefully as Bombay. From early in the morning thousands of people were seen on the beach taking a sea bath. They observed a 24 hours fast. All Indian shops, bazars, and business activities were closed. Innumerable Bhajan parties singing National songs and carrying the Satyagraha Banner and praying the lord for the repeal of the Rowlatt Act were parading the streets in sorrowful humility. In the afternoon a huge mass meeting was held in the Triplicane Beach where more than a hundred thousand men congregated around a dozen platforms to hear the Satyagrahis. Messages from Mahatma Gandhi and Dr. Subramaniya were read. An air of religious solemnity was about the demonstration which could not but reach and convert the heart even of those who were anti-Satyagrahis. There were not the parading exhibitions of resentment, the beating of breasts and

cry of *hai, hai,* as at Lahore. A sense of spiritual resignation pervaded the assembly, and perhaps also the authorities, who managed to forbear from a show of the police and from letting loose the military.

Mr. Kusturiranga Aiyangar was in the chair and the Hon. Mr. Narasimham Aiyer read the message from M. Gandhi.

Mahatma Gandhi's Message.

"I do hope that the Presidency that produced beautiful Valliamma, Nagappan, Narayanasami and so many others of your Presidency with whom I was privileged to work in South Africa will not quail in the presence of sacrifice demanded of us all. I am convinced that reforms will be of no avail, unless our would-be partners respect us. And we know that they only respect those who are capable of sacrificing for ideals as themselves. See how unstintingly they poured out treasure and blood during the war. Ours is a nobler cause and our means infinitely superior, in that we refrain from shedding blood other than our own".

Mr. T. M. Krishnaswamy Aiyer then read out the Ven'ble Dr. Subramaniam's message in which he expounded the true principles of Satyagraha and urged that "the right way to carry out the pledge is to *will* day after day, as forcibly as (one) can, that the autocracy now so much in evidence in the land and the exploitation to which it is exposed, should cease ; the present servile state of the country is not an accident but the necessary consequence of our past collective Karma. It is no other than the punishment inflicted by Providence through the instrumentality of that Autocracy. None who takes this rightful view of the matter ought to sit still, but atone by striving by all legitimate means to prepare for better conditions to our successors."

HARTAL AT LAHORE.

On April 2nd the Superintendent of Police issued a notice requiring the conveners of processions and meetings to apply for a license not later than 10 A M. on the day previous to that for which the license is required. Orders were also passed by the Government on Drs. Satyapal and Kitchlew prohibiting them to address public meetings. Official pressure was also applied on the local leaders to abandon the idea of the meeting at Bradlaugh Hall on the Satyagraha day and this raised a difference of opinion among the leaders as to the desirability of holding the protest meeting. Accordingly to arrive at a settlement a meeting was called on the

2nd where the leaders met to discuss the point. It lasted for several hours and sat till late at night with Dr. Gokul Chand Narang in the Chair. Mr. Ratan Chand moved for cancellation of the Bradlaugh Hall meeting while Mr. Dev Raj Sahney urged that the meeting be held as arranged, on the ground that a protest against the infamous "Black Act" was far more important than any other consideration. On being put to the vote the latter proposal was carried by 18 to 2 and it was decided that the meeting should be an open air one.

Accordingly on the 6th from the morning all business was suspended and all shops closed without a single exception. No gharry or tonga was plying except some private conveyances belonging to *ratses.* At about 8 o'clock people were seen walking in groups with mourning badges on their left arms, and by 9 o'clock there was a crowd of about two or three hundred people with Dr. Swain Sivaram at their head. This crowd began to proceed towards the city from the Mall with shouts of *"Mahatma Gandhi Ji ki Jai*, Mr. Mahammud Ali, Mr. Shaukat Ali *ki Jai*, Lala Lajpat Rai *ki Jai*, Mahatama Shradhanand *ki Jai*, Mr. Tilak *ki Jai"* As the crowd proceeded towards the city it began to grow in number and when it reached the Dabbi Bazaar, the principal market in the city, the crowd swelled to a thousand. Other groups of people who were waiting here now joined the main crowd and the whole body then marched towards the Mochi Gate with shouts of "Hindu Musalman *ki Jai*, Mahatma Gandhi *ki Jai*". People waiting on the roofs of houses and windows joined in the cry. All the people now took off their caps and pagris from their heads and began to express their mourning by beating their breasts with cries of *'hai hai*, Rowlatt Bill, *hai hai'* and proceeded towards Anarkali Bazaar. Poems condemning the passing of the Rowlatt Act were recited and in one place a printed copy containing the provisions of the Rowlatt Bill was burnt before the crowd with great cheering. Up to this time the crowd was passing peacefully but when it came near King Edward Medical College in order to proceed towards the Mall the Superintendent of Police came on horseback accompanied by several mounted Indian Sub-Inspectors and prevented it from proceeding towards the Mall. Some of the leaders who were in the front line of the crowd assured the Superintendent that they would not create any disturbance and requested him to allow them to proceed. He, however, would not allow the crowd to proceed towards the Mall and sent for military cavalry and armed police who were waiting near by and who had been picketted since early morning in Golbagh, a garden near the University Hall. A few minutes elapsed during which time the crowd had come in front of Mool Chand's shop near the Forman Christian College. The cavalry guarded the road towards

the Mall and practically closed it from all sides. The crowd here were shouting wild cries of *hai hai* and repeatedly requested permission to proceed, but they were asked to return and not to proceed. The crowd was not prepared to obey the orders of the police officers when Lala Duni Chand, Bar-at-law, and Dr. Gokal Chand Narang, Bar-at-law, arrived on the scene and co-operated with the police and appealed to the crowd to return towards the city. The discussion went on for some minutes and Dr. Gokal Chand once more appealed to the crowd to go back to the city and threw his cap at the feet of the crowd and said with a loud voice "gentlemen, if you love your country, you should go back towards the city." The appeal had its effect and Dr. Gokal Chand Narang mounting on a horse led the crowd towards the city. The crowd followed him and began to disperse gradually. Two armoured cars had arrived with machine-guns which slowly pressed the crowd and took them towards the city. By 1-30 p. m., the crowd had dispersed in different directions and calm was restored.

The protest meeting which was to take place at 5 P M. began earlier, as by 4 P. M. the Bradlaugh Hall was packed to its uttermost capacity. Three overflow meeting took place in the adjoining grounds outside the hall. Pandit Rambhuj Dutt Chowdhury presided inside the hall, and outside the gatherings were addressed by different batches of speakers. Pandit Rambhuj Dutt in opening the meeting made a long speech in Hindi explaining to the people the real meaning of passive resistance, asking them to be prepared to bear all sorts of sufferings and trouble which passive resisters would have to face in the struggle. Resolution was passed most humbly entreating His Majesty the King Emperor to disallow the measure as it constituted an immediate insult to millions of His Majesty's law-abiding and loyal subjects in India.

Three more resolutions were passed :—(1) viewing with alarm and disapproval the repressive orders of the provincial Government against Dr Saifuddin Kitchlew, Bar at Law, Dr Satyapal, Pandit Kothmal, Swami Anubhavanand, and Pandit Dinanath, Editor of the "Waqat" newspaper of Amritasar, considering these orders were unjust and injurious to the interests of peace, order and good government of the province, (2) viewing with strong disapproval the act of the authorities at Delhi in firing upon innocent persons without any justification, expressing deep sympathy with the family of the deceased on their sad bereavement and also with those unfortunately wounded in the affray ; (3) requesting the president of the meeting to forward resolutions passed to the Secretary of State for India, the Viceroy and the Lieutenant Governor

of the Punjab. After the meeting the crowd again formed a procession and marched towards the city with cries of Mahatma Gandhi ki jai, Lala Lajpat Raj ki jai, Hindu Musalman ki jai, and beating their breasts with mourning cries of 'hai hai.' The crowd made a stampede through the city beating their breasts continually for three or four hours, and making speeches condemning the Rowlatt Act.

Then came the parting kick of Sir Michael to the Indians. On April 7th he held his last Council and in his last Council Speech delivered himself as follows.—

"Government of this province is and will be determined that the public order which was maintained so successfully during the time of war shall not be disturbed in time of peace. Action has therefore already been taken under Defence of India Act against certain individuals at Lahore and Amritsar who, whatever their motives, were openly endeavouring to arouse public feeling against the Government. **The British Government which has crushed foreign foes and quelled internal rebellion could afford to despise agitators,** but it has the duty of protecting the young and ignorant whom they may incite to mischief and crime while themselves standing aside. I therefore take this opportunity of warning all who are connected with political movements in the province that they will be held responsible for the proper conduct of meetings which they organise, for the languages used at and the consequence that follows such meetings.

"The recent puerile demonstrations against the Rowlatt Act in both Lahore and Amritsar would be ludicrous if they did not indicate how easily ignorant and credulous people—not one in a thousand of whom knows anything of the measure—can be misled. Those who want only to mislead them incur a serious responsibility. Those who appeal to passion and ignorance rather than to reason have a **day of reckoning** in store for them." The Day of Reckoning came in the shape of Martial Law and its abominable atrocities.

In concluding his speech Sir Michael O'Dowyer said : "Gentlemen, I have often been criticised for dwelling on the achievments of the Punjab in season and out of of season, but my pride in the province is based on no narrow parochial spirit. I have spent 15 years away from it during which I have seen many other parts of India. I might indeed say, much as I have seen and known cities, known men and manners, climates, councils, governments, but nowhere did I find the same qualities as the Punjab can show. **From the prince's palace down to the peasants hut I found I could meet a Punjabi whatever**

his class or condition as man to man without suspicion or mistrust. I found him in the mass loyal but not subservient, brave but not boastful, enterprising but not visionary, progressive but not pursuing false ideals or mistaking the shadow for the substance." And yet a couple of days later this very Punjab was declared to be in Revolt by this very man.

Arrest of Mahatma Gandhi.

The people of Delhi who had so long been suffering so much from bureaucratic longheadedness yearned to see the Mahatma in their midst, and such was his magnetic charm that not only was his visit longingly wished but the Satyagrahis at Delhi thought it necessary to have him in the city as the only means of meeting the despair of the people and keeping them in the right track. Gandhi, who was then ailing at Bombay from acute heart-trouble, at last pursuaded his doctors to allow him to proceed to Delhi and left Bombay on the 8th April. The train was due to reach Delhi on the 9th evening. His coming was not made public on his own request as he could not bear a demonstration. The same evening, however, members of the Satyagrahi Sabha who went to the Station found it brimming over with the C. I. D. people. The train steamed in, and European travellers seeing them awating for Gandhi laughed and exultingly cried 'Arrested'! Mr. M. Desai, Gandhi's secretary, alighted from the train and informed that the Mahatma had been arrested at Palwal Station, a few miles from Delhi. Says Mr. Desai :—

"Mahatma Gandhi on his way to Delhi at Kosi was served with an order not to enter the Punjab, not to enter Delhi and restrict himself to Bombay.

"The officer serving the order treated him most politely, assuring him it would be his most painful duty to arrest him, if he elected to disobey, but that there would be no ill-will between them.

"Mahatma Gandhi smilingly said that he must elect to disobey as it was his duty, and that the officer ought also to do what was his duty.

"In the few minutes that were left to us, he dictated the following message, laying special emphasis on his oral message to me, as in the written messages, that none shall resent this arrest or do anything tainted with untruth or violence which were sure to damn the sacred cause.

ments alone and not to suppress politics. Referring to the contention made by many previous speakers that the Rowlatt committee itself did not suggest legislation, he quoted from the same report.

'To postpone legislation till the danger is insistant is in our view to risk a recurrence of the history of the years 1906—17.....

In these circumstances we think that appropriate provisions should be framed and enacted, but should not come into force save upon a notification by the Governor General in Council.

"Who can say in the face of this quotation that the Report did not recommend immediate legislation. Again in paragraph 187 the authors of the Report say, 'We have been forced to the conclusion that it is necessary in order to keep the conspiracies already described under control in the future to provide for the Defence of India Act of some of the powers which that measure introduced in a temporary form."

He further denied that revolutionary crime has ceased, and said that there are people who are waiting for the expiration of the present law to renew their sinister activities.

Regarding postponement, he said, that delay would be fatal; "if by sudden events the Defence of India Act was to expire and we had no legislation to take its place, the consequences would be disastrous. All the ground that we have gained now in the suppression of this anarchical movement would be lost. Our police efficiency, which has been so seriously, and in my opinion so unfairly, attacked would be destroyed; the services now employed in suppressing this seditious movement would be so discouraged that I think it would be impossible to expect good work from them and law and order would be sacrificed. We should also not be justified in delaying the passing of this measure, in that the delay would force us to use the Defence of India Act which is a war measure, in times of peace. I am anxious myself that it should not be so used and that we should not be accused of using a measure designed for war for entirely different purposes. To suggest that this measure is due to police inefficiency, my Lord, is, I think, ungenerous and a grudging tribute to men who have done excellent work. On the other hand, it might well be said, if failure to bring these men to trial is what we are accused of, that it is due a great deal to a lack of moral courage, to a lack of that sense of civic responsibility which is really essential in prosecutions of this kind. I will read to the Council what Sir Narayan Chandravarkar and Mr. Justice Beachcroft said :—'Before the Defenee of India Act was brought into force the fair trial of a person accused of revolutionary crime had been rendered practically impossible by the murder of approvers, witnesses, police-officers and law-abiding citizens, suspected by revolutionaries of having given information to or otherwise

which we would avoid if we could, because we have swerved from the path laid down for us by our ancient civilisation. I hope that the Hindus, Muhammadans, Sikhs, Parsis, Christians, Jews and all who are born in India or who made India their land of adoption will fully participate in these National observances and I hope too that women will taken therein as full a share as the men."

The Dawn of the Fatal Day.

The arrest took place at Palwal station on the 9th afternoon. The Mahatma's carriage was detached and brought back under Police escort to Muttra where he was detained till morning and then despatched by special train to a destination not then made public but which subsequently proved to be Bombay.

Meanwhile the people, assembled at Delhi station to welcome the Mahatma, had gone back with a broken heart. On April 10th the news of the arrest was flashed all over the country. "Arrested and Deported"! that was the awful message which dazed, agonised the Indian people. The effect was terrific. To a people as the Indians are, it suddenly reminded the power of the Government. And in proportion as the Indian public was pushed into a sense of awe of that power, Anglo-India at once sprang up in boundless merriment over the arrest. They congratulated the Government for this wise action, and openly advocated a wholesale arrest and deportation of "Agitators." The atmosphere of Delhi and the Punjab was thick with rumours of further arrests of the leaders. The whole country wept in silence, silently Delhi went for the third time on *hartal*, mourning for a sight of their *Mahatma* snatched away from them to a destination unknown by the might of those who are mighty!

Small in look, humble in life, emaciated by austerities, this "saint of the people, the mystical apostle of the gospel of love, of suffering and of self-humiliation" who had once prevailed against the brute Powers of Darkness in South Africa, simply by his purity of life and sanctity of Ideals—Mahatmaji carried away nobody knows where!

At 9 in the morning Delhi people congregated on the banks of the Jumna for their hartal bath and a meeting was held where Mahatmaji's message was read, and prayers were offered in view of the Mahatma's very weak condition of health. For the next few days the town was on complete hartal.

Lahore—10th April.

News of the arrest of M. Gandhi reached Lahore at about 1-30 P. M. and it spread like a wild fire. Business was suspended immediately and shops began to be shut up by 7 o'clock. There was a general strike and shops were closed and entire business was suspended. People began to be seen walking in groups and talking about the arrest of Mr. Gandhi and by 7-30 a large crowd was seen moving bareheaded in a procession beating their breast with mourning cries of "Hai Hai" and "Mahatma Gandhi Ki Jai" towards the city. As the crowds passed through the lanes of the city, it began to grow in numbers and when it reached the Mochi Gate it swelled to several thousands.

The crowd then proceeded towards Anarkali Bazar and Upper Mall with shouts of "Hai Hai" and "Mahatma Gandhi Ki Jai." It crossed nearly a quarter of the Mall without any obstruction, but when it reached near the shop of Francis Harrison and Hathaway, the Police armed with guns prevented them from proceeding further and asked them to disperse and go away. The crowd, it is said, did not return and proceeded forward and when it came near the O'dwyer Soldiers' Club and the English warehouse, a collision occurred between the crowd and the Police. The police pressed back the crowd with their rifles but the crowd did not go back and made a demonstration. Order was now given to fire and more than ten shots were fired. The crowd now dispersed and several were wounded and removed to hospital.

Another collision occurred between the Police and the crowd near the city and several were killed and wounded. Armoured motor cars with machine guns and military were guarding with bayonets the telegraph office and the European quarters of the city.

Amritsar Ablaze—10th April.

The arrest and deportation of Mahatma Gandhi was at the instance of the Punjab Government. That Government had already threatened the Satyagraha movement. They now ordered further deportations. Drs. S. Kitchlew and Satyapal were invited by the Deputy-Commissioner (Mr. Miles Irving—see his evidence before Hunter Committee, p.49, App.) to his house and at once deported to an unknown destination. News of the arrest got about the city about 11·30 and at once all shops closed. A huge procession was at once organised by 12·30; it went in the direction of the Deputy-

Commissioner's bungalow with a view to make a representation for the release of the leaders. When they reached the foot bridge near the Railway Station they were obstructed by the police and not allowed to proceed.

Tney were fired on, stopped in the vicinity of the station and driven back by the mounted men of the 12th Ammunition Column under Captain Botting, the Somerset Light Infantry, and the police under Mr. Plomer (Deputy Superintendent). The approaches had been guarded by piquets of cavalry raised from the Ammunition Column and other sources and the infantry were held in reserve. Their progress, however, was hindered by the police piquet under Mr. Plomer and their further advance was barred by the other units mentioned above organising an effective resistance. The crowd were forced back over the bridge leading to the civil station and the bridge was piquetted with infantry.

Buildings Burnt.

While all this was happening another part of the huge crowd had gone to the business part of the city. They burnt the National Bank, the Chartered Bank, the Alliance Bank, the Town Hall, the Mission Church and the depot of the Punjab Religious Book Society and murdered Mr. Stewart and Mr. Scott of the National Bank and Mr. G. M. Thomson of the Alliance Bank. The telegraph office was attacked but a detachment of a Pathan regiment who were doing railway guard rushed to the spot and drove the rioters away. Special mention must be made of Mr. Pinto, at the telegraph office, who although overpowered, rescued by the guard, his instruments smashed and wires disconnected, stuck to his post, reconnected and obtained communicaton again with the outside world.

Mr. P. E. Jarman, Municipal Engineer had a thrilling escape from the city, together with three othr men, Mr. J. W. Thomson and Mr. A. Ross of the Chartered Bank and Sergeant Parsonage of the S. and T. Corps. He says :—

"I was cycling into the city at 12-45 p. m. and met a crowd coming towards the Hall gate. They took no notice of me. I called at the National Bank and saw Mr. Stewart and Mr. Scott. No business was being done in the banks and there was obvious excitement in the air.

"I then went on to my office, which forms part of the Town Hall and is in the city I heard a crowd come rushing back about one o'clck crying. "They have killed two of us. Bring lathis !" At this moment Mr. G. M. Thomson of the Alliance Bank called me up on the telephone and just as he said 'What is all this *tamasha*

about?" the line crossed. I replied that we were crossed and would get another line and then the telephone went wrong.

"The crowd that had been shouting quickly returned in increased numbers. The first building demolished was the Post Office in the Town Hall. The Office was at the back of mine. They broke other windows, looted the place and set fire to it. They left the Post Office and came to my office and smashed the windows. I had a loaded revolver, but happily the police arrived on the scene under their very capable leader. I heard him give the order 'charge!' and the crowd went away.

"I was then advised to leave my office and go to the police quarters, the Kotwali close by and adjoining the Town Hall. This I very quickly did. I stayed there till 2-30 p.m. when I was advised to go to a private house for shelter.

"After leaving the Town Hall the crowd went to the National Bank. They went for Mr. Stewart and Mr. Scott and knocked them out with lathis. A Sikh headclerk was also there. After pulling a big almirah on top of the three of them they pulled the sikh out, pushed him out of the way and then attacked Mr. Stewart and Mr. Scott with lathis. The rioters looted the office, took all loose cash (amounting to Rs. 500 or Rs. 600) and returned to their two European victims. They then poured oil or petrol on everything and set fire to the building. The safe was looted and at mid-night was still intact.

"The victims were horribly burnt I have seen them and neither are recognisable.

"The rioters passed on to the Alliance Bank, while another crowd came along and looted the National Bank "Godown." At the Alliance Bank Mr. Thompson fired on the hooligans and killed several as his empty revolver afterwards showed. He was overpowered, however, and thrown over the verandah into the road. His remains were afterwards picked up and taken to the Kotwali. The looters laid their hands on anything of value, set fire to the papers and burnt the place out. They went on next to the Chartered Bank where were Mr. J. W. Thomas and Mr. A Ross who were rescued by the police.

"About this time I was advised to leave the Kotwali. I was very kindly given shelter by an Indian friend in the city. I stayed there until about 4-30 p. m. when I was informed that Mr. Thomson and Mr. Ross of the Chartered Bank were at the Kotwali and I joined them and Sergeant Parsonage of the S. and T. there.

"The natives, meanwhile, went into the Town Hall, pulled down the portraits of the civic fathers, tore them up, trampled on

them and fired them. They treated every office in a similar manner, except mine curiously enough; but they burnt my bicycle.

"The four of us stayed in the Kotwali until midnight. We were fed by Indian friends. We left with an escort taking the body of Thomson, and picking up the bodies of Stewart and Scott from the National Bank. They were sent to the mortuary in the civil lines and we came via the station to the Fort arriving about 1-30 a.m. and wearing *pagris*.

"An accusation has been made by the Indians of wells being poisoned. They smashed all the stand posts in Hall bazar. I therefore gave orders that pumping should cease until I had had samples taken. Now I hear the city pipe layer sent word to the pumping station saying pumping should be resumed or the mob would take action Pumping is going on, I understand, so I cannot take any further responsibility."

Dr. Easdon, the lady doctor in the Municipal Zenana Hospital in the west of the city, had an even more exciting experience than Mr. Jarman. About 1-30 p.m. she was attacked in the Hospital. She hid in a small closet for two hours whilst the mob searched high and low for her. At 3-40 p.m. she escaped in native dress by a side door and went to the house of an Indian friend. She stayed in the city until night and then again escaped in Indian dress and arrived at the Fort about 1 a.m.

Mr. A. Ross, who was with Mr. J. W. Thomson at the Chartered Bank in the centre of the city, some 100 yards from the Town Hall, gave the following narrative.

"The first we heard of anything was a telephone message from the Alliance and National Banks saying they could not understand the crowds that were passing through the city and thought there must be some trouble brewing.

"We next saw some of the wounded natives being brought back. The Indians were shouting, 'Burn and loot the banks' and eulogising Mr. Gandhi in the phrase *Gandhi ke Jai*. The next thing we knew was that the crowd was smashing the windows. Mr Thomson and I slid up a narrow dog-leg staircase and stayed there with an ink bottle in each hand. All the *baboos* went on top of the roof and told the crowd the *sahibs* were not inside. The crowd, however, broke through the doors, found our hats and tore them to bits. They tore up the majority of our books, wrenched off the handles of the safe, but could not open it. The *baboos* meanwhile were on the roof yelling for the police who were in the Kotwali, less than 100 yards away. The police soon arrived and cleared away the riotous

intruders. We stayed for an hour and the *oaboos* extinguished the fire which had been started.

"The police escort took us through the gardens to the police station about 4-12 p.m. We were left there under an escort of the Sussex Regiment and with Mr. Plomer, Deputy Superintendent of Police, and went to the Fort."

The Other Murders.

Sergeant Rowlands, cantonment electrician, was caught near the Rego bridge whilst making a dash for the Fort. He had been trying to mend the wires. His head was smashed and he was found in a tent on the horse fair ground near by.

The railway guard Robinson, an ex-Northumberland Fusilier, was beaten to death with lathis in the goods yard.

Nurse Sherwood of the Mission School who refused to leave when requested was badly cut about the head, but her injuries were not serious.

Military Forces.

The garrison of Amritsar when the outbreak occurred consisted of one company of Somerset Light Infantry in charge of Captain Massey (O. C. Station), half a company of Garrison Artillery and the 12th Ammunition Column. Whilst the riot was taking place a company of the 1-9th Gurkhas, passing through the station enroute for Peshawar, was detrained and armed under the command of Captain Crompton who rendered valuable service in reinforcing the piquets. All positions were held until relief came from Lahore in the shape of one company of the 2-6th Sussex Regiment and a company of the 1-24th Baluchis under the command of Major Donald, who then became O. C. Troops, Amritsar. Further troops arrived from Jullundur, including the 25th Londons, and order was maintained. Captain MacMillan of the 2nd Lancers who was at Amritsar at the time rendered valuable service. The city on Friday was practically surrounded, all important positions and the approaches to the civil station being well guarded. The railway station was full of British and Indian troops The ruined banks, Town Hall, etc., were held by the police. Brigadier General Dyer visited Amritsar on Friday night. Lieut. Shallow, R. G. A. was in command at the Fort.

At the Fort the women and children.

Practically the whole of the Europeans of the Civil Station were interned in the Fort. Captain Jarad of the Recruiting Office, con-

gregated all the women and children at the bungalow of Mr. Jeffring P. W. D. at 6-30 p. m. on Thursday night and took them into the Fort. The men joined them there. This little European colony was still domiciled there on Friday. The women slept on the floors and the men slept in the open. They were being fed on bully beef and bread, One and all, however, praise the police and C. I. D. for the splendid work they did, and they affirm that but for them many more Europeans would have lost their lives. The Municipal Secretary is one of those who narrowly escaped.

Punjab Government Communique.

Lahore, April 13 :—As various exaggerated and misleading reports appear to be in circulation regarding the disturbance which lately took place in Amritsar and Lahore the following authoritative account is published :—

Early on the morning of the 10th orders under the Defence of India (Consolidation) Rule were served on Dr. Saifuddin Kitchlu and Dr. Satyapal, two local agitators, whose speeches and activities during the previous few weeks combined to bring about a state of general unrest in Amritsar. They were removed by motor and train. Shortly before 11 A.M., the news of these arrests rapidly spread throughout the City. A large crowd, numbering possibly 10 or 20,000, thereupon collected and endeavoured to rush the civil lines. In anticipation of possible trouble pickets were posted on the railway overbridge and level crossings connecting the city with the lines. Arriving at the overbridge the crowd refused to obey orders to disperse or retire, and stones were thrown at the men of the picket. The District Magistrate gave order to fire. The mob thus defeated in its immediate object turned back towards the city, divided itself into two portions first of these arming themselves with wooden rails and similar weapons attacked the railway station. Here part of the goodsshed was burnt, and a railway subordinate, named Robinson, who attempted to check the advance of the crowd was murdered. Troops and police on the spot succeeded however in preventing damage being done to the Station itself. While these events were in progress, the other part of the mob attacked and and burnt the Town Hall, banks and certain other buildings inside the city. British Officers of the, National Bank, Stuart and Scott, and one of the Alliance Bank of Simla. Thompson, were foully murdered. Other Europeans in the city succeeded in evading the rioters with the exception of Sergeant Rawlings, Cantonment Electrician, who was intercepted and overpowered while endeavouring to reach the fort. Smaller bodies of rioters broke away and endeavoured to destroy the permanent way at various points, and wrecked the small station Chahaharta on the main, and Bagtanwala on the Pathikanur line. Trains were delayed for some hours on the 10th but normal traffic on the main lines was fully restored the following day. Local troops and the police reinforced by a company of Gurkha soldiers passing through Amritsar by train at the time succeeded in preventing any successful attack on civil lines and in restoring order at the Railway Station and other important points. Military reinforcement arrived in Amritsar during the course of the evening and by nightfall the mob was confined to the limits of the city which was practically surrounded. On the following evening detachments of troops entered the city itself and encountered no resistance. The total

number of killed among the crowd is believed between twenty and thirty. Relatives of the dead persons were permitted to dispose of the bodies outside the city under conditions laid down by the Commissioner who arrived on the evening of the 10th.

Disturbances of a similar character though with less unfortunate results occured in Lahore when the news of Amritsar riot was received on the evening of the 10th. Shops in the city and the vicinity were quickly closed and the noisy crowd endeavoured to force its way towards the civil lines. The crowd was met by a small police detachment near the High Court and on refusal to abandon its progress was dispersed under orders of the District Magistrate by musket fire. At a later hour in the evening, the police again was compelled to fire on the disorderly crowds which attacked them with missiles in the vicinity of Lahori Gate. Two persons were killed in this day's firing and about four others wounded. Military precaution has early been taken to render any recurrence of such events impossible and on the 11th no collisions occurred between the polics or the troops and the mob either in Amritsar or Lahore. Though shops remained closed on the morning of the 12th, troops passed through Lahore city itself and occupied certain commanding points At one point only the crowd obstructed the passage of the troops and brick-bats were thrown. Under orders of the District Magistrate they dispersed the crowd with a few musket shots, two being killed and as many more wounded. At Amritsar the day passed off quietly, troops marched round and into the city and found the streets almots deserted.

Martial Law Ordinance.

Simla April 14:—The following Communique was issued by the Home Department, Government of India:—

As the Governor-General-in-Council is satisfied that a state of open rebellion against the authority of the Government exists in the districts of Lahore and Amritsar, he has been pleased to bring into force in those districts the provisions of Section 2 of the Bengal State Offences Regulations 1804 for the trial by Courts Martial instead of the ordinary criminal courts of persons taken in arms in open hostility to the British Government or in the act of opposing by force of arms the authorily of the same, or in the actual commission of an overt act of rebellion against the state or in the act of openly aiding and abetting the enemies of the British Government.

THEN CAME THE MARTIAL LAW ORDINANCE, SIMLA, APRIL 15th.

Ordinance No. 1 of 1919

(1) This Ordinance may be called the Martial Law Ordinance, 1919.

(2) It shall come into operation at midnight between the 15th and the 16th April, 1919.

(3) (i) Every trial held under the Bengal State Offences Regulation 1804 (hereinafter called the said Regulation) shall instead of being held by a Court Martial be held by a Commision consisting of three persons appointed in this behalf by the Local Government. (ii) The Local Government may appoint as many commissions for this purpose as it may deem expedient. (iii) At least two members of every such commission shall be persons who have served as Sessions Judges or Additional Sessions Judges for a period of not less than the three years or persons qualified under Section 101 of the Government of India Act, 1915, for appointment as Judges of High Court. The Local Government shall nominate one of the members of the Commission to be President thereof.

(14) A Commission shall be convented by the Local Government or by such officer as the Local Government may authorise in this behalf.

(15) A Commission shall have all the powers of a general Court Martial under the Indian ArmyAct 1911, and shall, subject to the provisions of this ordinance, in matters follow so far as may be, the proceedures regulating trials by such Courts Martial prescribed by or under the said Act, provided that where, in the opinion of the convening authority, a summary trial is necessary in the interests of the public safety, such authority may direct that the Commission shall follow the procedure prescribed for a summary General Court Martial by order or under the said Act, and the Commission of this Ordinance follow such proceedure accordingly, provided further that Sections 78, 80 and 82 of the said Act shall not apply to any trial under this Ordinance.

(16) The finding and sentence of a Commission shall not be subject to the confirmation by any authority.

(17) Nothing in this ordinance shall affect any trial held or begun to be held by Court Martial under the said Regulation prior to the commencement of this Ordinance save as provided by Section 6. The provisions of this Ordinance shall apply to all persons referred to in the said regulation who are charged with any of the offences thereon described, committed on or after the 13th, April 1919.

(Sd.) Chelmsford,
Viceroy and Governor-General.

A Gazette of India Extraordinary published the following resolution of the Home Department, dated Simla, 14th April 1913.

The present situation arising out of the agitation against the anarchical and revolutionary Crimes Act (commonly called the Rowlatt Act) renders it imperative on the Governor-General in Council to define the attitude of the Government on the subject of that agitation and the serious disorders which have resulted therefrom and intimate the nation of the concerted action which it is now necessary to take for the preservation of law and order.

When the Bill was under discussion its opponents declared publicly that if it passed into law a campaign of agitation against it on a scale hitherto unattempted would be organised throughout India, and a section of them indicated that they would support that campaign by resort to what is known as passive resistance. No one cognizant of the conditions of India could have been ignorant at the time of the dangers of initiating a widespread movement of this nature. They were clearly pointed out by many public men of moderate views and the representatives of Government did not fail during the debates on the Bills to emphasize the serious consequences to the public peace which would follow from an agitation such as was then threatened. These warnings were unheeded, and to the agitation which has succeeded the passing of the Act must be directly attributed the open breaches of the public peace, the defiance of authority, and the criminal attacks on life and property which have lately been witnessed in certain parts of India.

The agitation has followed a double line of action, namely, direct criticism of the Act by means of public speeches and publications, and the initiation of the threatened movement of passive resistance. The latter movement, was ushered in by a demonstration consisting of the observance of a day of fasting and the closing of shops and places of business. Such a demonstration was not in itself illegal, but there is ample evidence to prove that in more than one place those locally responsible for organisation overstepped the limits of lawful persuasion, and resorted to direct interference with the business of many who were not interested in the movement and to forcible obstruction of the traffic in the public street. But the indirect consequences of this aspect of the agitation have been far more mischievous in that it prompted, a sense of unrest and of excitement which was bound to react and has reacted on the more ignorant and inflammable section of the population. The campaign of criticism has involved in many quarters the use of most flagrant misrepresentations regarding the character of the Act. It is clear that large numbers of ignorant people have been deliberately led to believe that the new law gives the police unfettered authority to

interfere with public meetings, not only of a political but of a religious and social nature, and to arrest summarily persons engaged in political work, and that it empowers the executive authority to imprison without trial any person criticising the action of the Government.

The Rowlatt Act Explained.

The Governor-General in Council thinks it necessary to reiterate here the following salient facts concerning this Act :—It is specifically directed against revolutionary and anarchical crime and can only be brought into force in any locality where it has been proved to the satisfaction of the Governor-General-in-Council that such crime or movements tending to such crime exist. It has not so far been brought into operation in any part of India. Its first part merely provides for the speedy trial of certain grave offences In the second and third parts provision is made for preventive action similar to, but much more restricted in scope than, that now provided by Rules under the Defence of India Act against persons suspected of revolutionary or anarchical crime. Action cannot, however, be taken against any individual without the previous order of the local Government. There is nothing, therefore, which can jus ify the wide spread rumours, for which the promoters of the agitation must be helds responsible, that unusual or even extended powers have been given to the police, nor is there anything which need cause fear or apprehension to any person other than the revolutionary or the anarchist. Not only the terms of the Act definitely exclude its use in any case not falling within the definition of anarchical or revolutionary conspiracy, but Government has given the most categorical pledge which the Governor-General in Council takes the opportunity to (reiterate), that the tenor and intention of the Act will be scrupulosly safeguarded, should occasion arise to put it into operation.

The Punjab Disturbances.

The Governor-General in Council considers it unnecessary to detail here the deplorable occurrences resulting from the agitation against this act. The offences which have occurred at Delhi, Calcutta, Bombay and Lahore have one common feature, the unprovoked attempt of violent and unruly mobs to hamper or obstruct those charged with the duty of maintaining order in public places. At Amritsar and Ahmedabad they have taken a far graver form, a murderous attack on defenceless individuals and a wholesale and wanton destruction of private and public property. The Governor-General-in-Council thinks it right to state that at Amritsar the loss of life might have been greater but for the protection afforded by unofficial Indians to those who were threatened by the mob, and he takes this opportunity of expressing the gratitude of the Government for this conspicuous example of loyalty and humane feeling.

Powers of Repression

It remains for the Governor-General in Council to assert in the clearest manner the intention of the Government to prevent by all means, however drastic, any recurrence of these excesses. He will not hesitate to employ the ample military resources at his disposal to suppress organised outrage, rioting or concerted opposition to the maintenance of law and order, and has already sanctioned the application of State Offences Regulation 1804 in a modified form to certain districts of the Punjab. He will further use all preventive measure provided by the statutes to check disorder at its source, and in Regulation 3 of 1818 and the corresponding Regulations applicable to Bombay and Madras and in the rules under the Defence of India Act, he has powers which will enable him to deal effectively with those who promote disorder. He has sanctioned the extension of the provisions of Seditious Meeting Act to the District of Lahore and Amritsar in Punjab, and will authorize a similar extension to other areas in which local Governments see reason to require it. The Police Act of 1861 enables a local Government to quarter additional police on any locality which is guilty of organised offences against the public peace at the charge of the inhabitants, and to levy from the latter compensation for those who have suffered from injury to their property. The Governor General in Council will advise Local Governments to make a free use of those provisions where necessary.

The Governor-General feels that many of those who inaugurated this agitation must regret the lamentable consequences which have ensued, the loss of life and property and the damage to the reputation of India. He now appeals to all loyal subjects of the Crown and to all those who have an interest in the maintenance of law and protection of property, both to dissociate themselves publicly from the movement, and to exert themselves in quieting unrest and preventing disorder. To all those who render such assistance to the cause of the public and the state and to those servants of the Government who are charged with the onerous responsibility of suppressing excesses against public peace and tranquility, the Governor General in Council extends the fullest assurance of countenance and support.

Ahmedabad Riot.

April 10th & 11th..

The report that Mr. Gandhi had been arrested arrived here at about 10 o'clock on Thursday 10th morning and side by side with it a report that Bai Anusiya, sister of Mr. Ambalal Sarabhai who associated with Mr. Gandhi during the great mill strike last year and had worked for the amelioration of the hard life of the labourers, had also been arrested. The first manifestation of popular excitement was the closing of shops. The city presented a rather deserted appearance until three o'clock in the afternoon when the mill hands turned out in large numbers and proceeded from the three gates towards the railway station. On the way they made various kinds of demonstrations. People were asked to get down from motor cars and were deprived of umbrellas and shop-keepers who had not suspended business were compelled to close their shops. Feeling ran high against the European passers-by, particularly mill officials, and on seeing Mr. Sacgor and Mr. Staple, Mill Engineer and Weaving Master in motor cars they went for them brandishing sticks and handled them very roughly. Finding themselves surrounded by an angry crowd these two hurried to the flour mill at Prem Darwagea known as Bapalal's Mill and went inside for protection. When the mob arrived they found the doors closed against them and shouted in vain for the surrender of the two men. Eventually they brought a tin of kerosine oil, poured the oil over the wooden frame work of the mill and set fire to it. The police tried to prevent the mischief but were overpowered by the large crowd. Eventually troops were sent for. Mr. G. E. Chatfield, Collector, Lieutenant Colonel G. S. Fraser, Officer Commanding 97th Indian Infantry and Mr. R. Boyd, Superintendent of Police who were quickly on the scene tried to persuade the mob to go away but finding them determined to do mischief and not the least inclined to move, order to fire was given. The men dispersed, after several had been shot and others more or less severely injured. The Mill was burnt down. In the same afternoon when two Europeans belonging to the Government Central Dairy were driving in a motor lorry a mob of mill hands stopped them and told them "alight, go on foot and join the people in their mourning for the arrest of Mr. Gandhi." On their refusing to do anything of the kind the crowd attacked them.

In the evenning the local Satyagrahis held a meeting on the bed of Sabarmati river which was largely attended. Speeches

were made denouncing Mr. Gandhi's arrest, but calling upon people not to create disturbance or to suspend work.

Next day, the 11th April, the people closed their shops and the mill hands came out bent on further mischief. They terrorised those who had opened their shops into closing them. They were armed with bamboo sticks and lathis and not satisfied with getting shops closed, stoned the doors and windows of the people's houses and compelled them to shut themselves indoors. The crowd which was about four thousand in number at first began to swell and visited different localities of the city. Coming to Lal Darwaja, where a Mandap had been erected for holding matriculation and school final examinations they set fire to it and destroyed it. The city fiebrigade which consists of one large fire engine and three smaller ones was brought into requisition, but could not render any service as the mob cut the hose of the large engine and in other ways disabled it. They also attacked the lascars who ran away. They next turned their attention to Collector's Head quarters where there is a group of public offices. Of these Collector's corresponding office, account office, Treasury Office, Income Tax Office, City Magistrate's Office, Excise Office, the lock up for under trial prisoners, Sub-Registrars office and Office of Mamlatdar were set on fire and destroyed. The police again found themselves unable to deal with the large mob which had divided itself into several groups to carry out their work of destruction simultaneously at different places and the remaining small fire engines which were also broken up by rioters were useless The buildings were wrecked. Their contents were almost destroyed. The wood work was like charcoal, and bare walls alone gave evidence of the kind of structures they once were. There were about fifty under trial prisoners in the lock-up, all of whom escaped. The mob also raided Ahmedabad Electrical Company's Installation which supplied electric light to the city, cut the wires and caused considerable damage to the plant. They also smashed Electric lamps in the streets. While raiding these works the mob assaulted Mr D. E. Brown, Superintendent of the Company. They also cut the telephone wires in the city. Shortly before eleven o'clock in the forenoon the rioters set fire to the telegraph office almost entirely destroying its instruments, and machinery and its wooden frame work. Several wires connecting Ahmedabad with other centres were cut on Friday. It was possible to send messages to Bombay via Agra, but that connection was no longer available as the connecting wire had since been cut. Every day there were reports of wires being cut in places round about Ahmedabad, and it was hence arranged to give a military escort to

the telegraph men who do repairs. A number of police chowkeys in the city met with the same fate. The rioters set fire only to those located in the Government buildings. If they happened to be private buildings they took out their records and other moveable articles and destroyed them. As the police was outnumbered every where small military parties were told off to different localities and at a number of places firing was resorted to in order to stop excesses and personal violence of riotous mobs. At night on Friday several country liquor shops which had been closed were forced open by the rioters who took away the liquor. On Friday Europeans, particularly officers, were picked out for assault. Mr. Chatfield had a narrow escape, at three gates when he was proceeding in motor car, the sticks with which he was attacked fortunately falling on the car. Inspector Acton and Sub-Inspector D. D. Kothawalla were stoned. Police Sergeant Fraser was so severely beaten by sticks by the rioters that he died from his injuries shortly afterwards It was estimated that about 150 persons had been injured during the riots. The number of killed is not definitely known but is believed to be about a dozen.

On Saturday it was thought desirable in view of the previous day's disturbances to keep military posts at all road junctions in the city to prevent crowds collecting. Notice in Gujarati was issued warning the people that they would be liable to be fired upon whenever they were in the crowd of more than ten persons, and if any body was seen outside his house between hours of 7 P.M. and 6 A.M. and did not stop when called upon to do so. This arrangement had the desired effect in putting a stop to disturbances. The city was quiet throughout the day. Streets seemed deserted and all shops were closed. News of Gandhi's return to Bombay was received in Ahmedabad only on Saturday afternoon, and messengers were sent round different localities by the local Satyagraha Sabha making the announcement. This contributed to preservation of peace on Saturday. Rioters on Friday heard of the troops arriving from Bombay and some one derailed the train. They were in at one in the morning of Saturday. Fortunately none was injured.

The whole affair was essentially a campaign carried on against Englishmen generally and against English officials and certain unpopular Indians in particular. It was also clear that some clever heads were assisting the Mill hands from behind. As a precautionary measure all English residents in the town were removed to Shahi Baug for their personal safety on the night of April 11th and during the following days. Whenever they had to come to the city they had to travelby Dholka railway, crossing the river. From highest to the

lowest English officers in the city with a few exceptions were treated roughly, a most lamentable example being that of a Police Sergeant Fraser who was each time intercepted while out cycling, dragged from the house where he took refuge and cut to pieces with swords. Among Indian officials who were ill-treated was Mr. Bulckhidas, Personal Assistant to the Collector. The mob prepared to burn his house. When the neighbours dissuaded them they broke it open, forced the safe and stole notes and sovereigns. Khan Bahadur Harsen Khan Dhanekhan, retired Police Inspector and now Honorary Magistrate, was similarly treated. He and his family ran away on hearing of it. The mob afterwards took possession of his house, took out his things and set them on fire. Many of the rioters came from Kaira District. Some possessed swords. It was reported that the temple of Swami Narayan and Jain Religious institutions were robbed of their weapons. Before these incidents took place one culvert of Sabarmati Bridge was removed so that the train carrying Europeans to Shahi Baug might be wrecked. Further particulars from Viramgaum go to show the object of the idle mill hands and other rioters were to terrorise European residents and officials only. They molested an English Mill Officer and Mr. Michael Wright, Traffic Inspector of B. B. and C. I. Railway. The station staff and Station Master intercepted, when the mob attacked the station, brought kerosine oil and grass and set fire to the station house and looted the waggons in the yard. Before troops arrived they disappeared. In Viramgaum town they perpetrated various kinds of outrages, one of which was to burn alive Mr. Madhaval, Aval Karkun, and third class Magistrate of Viramgaum who had a reputation of dealing severely with criminals.

M. Gandhi back at Bombay.

April 11th 1919.

When news about M. Gandhi's arrest reached Bombay the two most important cloth markets, the Colaba Cotton market and the Moolji Jethia market suspended business, and so too the majority of shops in the Indian quarters, but there was no excitement, as such an action at the hands of the Punjab Government.

was quite expected. Several young men and College students signed the satyagraha pledge The Mahatma's message to his countrymen were read and discussed everywhere. Crowds collected here and there eagerly enquiring about the Mahatma's where abouts; his health specially was a matter of great concern to the people. Satya-graha literatures were bought and read amongst small groups. Mrs. Naidu sold a copy of the *Hind Swaraj* for Rs 1000 and a few others were taken for Rs. 500 each. The commotion went on till midnight when Mrs. Naidu, Messrs Jamnadas Dwarkadas, Umar Sobhani and other lieutenants of M. Gandhi arrived on the scene and after speeches the crowd dispersed quietly. Next day, 11th April, the shops continued to be closed and some trouble was caused in the town without however any serious consequences. The Stock Exchanges, the Cotton markets, the Javahir bazar remained closed. The younger and more head strong elements of the crowd occupied themselves in making noise and trying to make other people join them in their rowdyism They stopped trams, held up vehicular traffic, and on more than one occasion came in collision with the police. The Police charged and brickbats were thrown and at one time the military had to be called in and on their sight the crowd dissolved. Several people were arrested by the police. Arrangements were made to hold 2 meetings in the afternoon but these had to be cancelled on the sudden arrival of Mahatmaji.

The special Express conducting him under police escort from Muttra reached Bombay at 1-30 p. m. on the 11th April. The Mahatma preferred to alight at the Marine Liners station as he wanted to avoid any demonstration. At Baroda Railway station he was met by an official deputed by the Government who served on him an order of the Bombay Government interning him within the Bombay Presidency; he was not to travel outside the Presidency!

His arrival was not known to the public till 4 p. m. in the afternoon. The news spread rapidly and by 5 p. m. a huge crowd collected at the Sands to meet him. The meeting was arranged by the Satyagraha Sabha.

M. Jamnadas Dwarkadas in a preliminary address before Mr. Gandhi's arrival, pointed out how people in Bombay by their action that day, such as throwing stones at tram-cars and hindering their traffic and coercing other people in petty ways to observe mourning for Mr. Gandhi's arrest had caused immense and deep grief to M. Gandhi. All such demonstrations were against the principle of Satyagraha. The arrest of M. Gandhi was a matter for rejoicing and not one for mourning. Half the battle was won by

M. Gandhi's arrest. He strongly exhorted all Satyagrahis and their sympathisers to observe the letter and spirit of M. Gandhi's instructions and to act with a resolute will not to break out into outward demonstrations.

The crowd conducted itself in an orderly manner and patiently awaited M. Gandhi's arrival.

M. Gandhi arrived at the meeting at seven o'clock in the evening; a message from him was read from different platforms. In his message M. Gandhi acknowledged the kindness of his treatment by officials during his two days detention, saying that he had more comforts then than when he was free. Regarding the recent disturbances he said:—"I have not been able to understand so much excitement and disturbance that followed my detention. **It is not Satyagraha. It is worse than Duragraha.** Those who joined Satyagraha demonstrations were bound one and all to refrain at all hazard from violence, not to throw stones or in any way whatsoever to injure any body; but in Bombay, we have been throwing stones and we have obstructed tram-cars by putting obstacles in the way. This is not Satyagraha. We have demanded the release of about fifty men who have been arrested for deeds of violence. It is a breach of religion or duty to endeavour to secure the release of those who have committed deeds of violence. We are not therefore justified on any grounds whatsoever for demanding the release of those who have been arrested. I have been asked whether a Satyagrahi is responsible for the results that follow that movement. I have replied that they are. I therefore suggest that if we cannot conduct this movement without the slightest violence from our side the movement might have to be abandoned or it may be necessary to give it a different and still more restricted shape. It may be necessary to go even further. **The time may come for me to offer Satyagraha against ourselves.** I would not deem it a disgrace that we die. I shall be pained to hear of the death of a Satyagrahi but I shall consider it to be a proper sacrifice given for the sake of the struggle but is those who are not Satyagrahis, who shall not have joined the movement, who are even against the movement, if they receive any injury at all, every Satyagrahi will he responsible for that sinful injury. My responsibility will be a million times heavier. I have embarked upon the struggle with a due sense of responsibility. I have just heard that some English gentlemen have been injured. Some may even have died from such injuries. If so it would be a great blot on Satyagraha for me. Englishmen too are our brethren. We can-have nothing against

them and for me sins such as I have described are simply unbearable. But I know how to offer Satyagraha against ourselves. As against ourselves what kind of Satyagraha can I offer? I do not see what penance I can offer excepting that it is for me to fast, and if need be, by so doing to give up this body and thus prove the truth of Satyagraha. I appeal to you to peacefully disperse and to refrain from acts that may in any way bring disgrace upon the people of Bombay."

M. Gandhi in his short speech then expressed thanks to the Governor and the police for all absence of the use of rifle fire or gun the people to remember that they should learn to keep perfect and exhorted peace and **to undergo intelligent suffering**, and that without those attributes there was no Satyagraha.

After M. Gandhi's message had been read from different platforms in Gujrati the meeting dispersed in an orderly manner.

On 12th April **Sir Rabindra Nath Tagore** addressed the following letter to Mahatma Gandhi, and its publication created a stir in the country.

Dear Mahatmaji,—

Power in all its forms is irrational, it is like the horse that drags the carriage blindfolded. The moral element in it is only represented in the man who drives the horse. Passive resistance is a force which is not necessarily moral in itself; it can be used against truth as well as for it. The danger inherent in all force grows stronger when it is likely to gain success, for then it becomes temptation.

I know your teaching is to fight against evil by the help of the good. But such a fight is for heroes and not for men led by impulses of the moment. Evil on one side naturally begets evil on the other, injustice leading to violence and insult to vengefulness. Unfortunately such a force has already been started and either through panic or through wrath, our authorities have shown us their claws whose sure effect is to drive some of us into the secret path of resentment and others into utter demoralisation.

In this crisis you, as a great leader of men have stood among us to proclaim your faith in the ideal which you know to be that of India, the ideal which is both against the cowardliness of hidden revenge and the cowed submissiveness of the terror-stricken. You

have said, as Lord Buddha has done in his times and for all time to come :

"Akkodhena jine kodham asadhum sadhuna jine" "Conquer anger by the power of non-anger and evil by the power of good."

This power of good must prove its truth and strength by its fearlessness, by its refusal to accept any imposition, which depends for its success upon its power to produce frightfulness and is not ashamed to use its machines of destruction to terrorise a people completely disarmed. We must know that moral conquest does not consist in success, that failure does not deprive it of its dignity and worth. Those who believe in spiritual life know that to stand against wrong which has overwhelming material power behind it is victory itself; it is the victory of the active faith in the ideal in the teeth of evident defeat.

I have always felt, and said accordingly, that the great gift of freedom can never come to a people through charity. We must win it before we can own it. And India's opportunity for winning it will come to her when she can prove that she is morally superior to the people who rule her by their right of conquest. She must willingly accept her penance of suffering, the suffering which is the crown of the great. Armed with her utter faith in goodness, she must stand unabashed before the arrogance that scoffs at the power of spirit.

And you have come to your motherland in the time of her need to remind her of her mission, to lead her in the true path of conquest, to purge her present day politics of its feebleness which imagines that it has gained its purpose when it struts in the borrowed feathers of diplomatic dishonesty.

This is why I pray most fervently that nothing that tends to weaken our spiritual freedom may intrude into your marching line, that martyrdom for the cause of truth may never degenerate into fanaticism for mere verbal forms, descending into self-deception that hides itself behind sacred names.

With these few words for an introduction allow me to offer the following as a poet's contribution to your noble work :—

I

Let me hold my head high in this faith that thou art our shelter, that all fear is mean distrust of thee.

Fear of man? But what man is there in that world, what king, O King of kings, who is thy rival, who has hold of me for all time and in all truth?

What power is there in this world to rob me of my freedom? For do not thy arms reach the captive through the dungeon walls, bringing unfettered release to the soul?

And must I cling to this body in fear of death, as a miser to his barren treasure? Has not this spirit of mine the eternal call to the feast of everlasting life?

Let me know that all pain and death are shadows of the moment; that the dark force which sweeps between me and thy truth is but the mist before the sunrise: that thou alone art mine for ever and greater than all pride of strength that dares to mock my manhood with its menace.

II.

Give me the supreme courage of love, this is my prayer,—the courage to speak, to do, to suffer at thy will, to leave all things or be left alone.

Give me the supreme faith of love, this is my prayer,—the faith of the life in death, of the victory in defeat, of the power hidden in the frailness of beauty, of the dignity of pain that accepts hurt but disdains to return it.

Delhi after the Arrest.

The following account of Delhi between 11th April to 19th April last is given in the language of Swami Shradhananda. It is taken from his evidence before the Hunter Committee:

"Mr. Mahadeva Desai wrote out Mahatma Gandhi's "message to my countrymen" and we got it typed in the night. It was sent round to the papers. On the morning of April 10th there was again a complete Hartal. As there was no time for circulating notices, I left my lodging at about 7 30 in the morning. People

assembled in large numbers in the way and the news spread within half an hour that Mahatma Gandhi's message was to be read on the banks of the Jumna River to the assembled people. At 9 A. M. about 20 thousand people (ladies and gentlemen) had reached the place of the meeting. The message, which is now a classical document, was read and explained by me and prayers were offered to the Almighty for his long life and the success of Satyagraha.

"In the evening there was another huge gathering numbering about seventy thousand people. The principal resolution put forward, said: "This mass meeting of the citizens of Delhi calls upon every Indian to do his duty to his country and following the noble and inspiring example set by Mahatma Gandhi at Palwal, to seek the withdrawal of the Rowlatt legislation or his own imprisonment."

Another C. I. D. Attempt at Disturbance.

"When the resolution was about to be put to the vote a strange incident occurred. A man who was standing at the farthest corner of the audience said in a shrill, piercing voice "Stop; what are you doing at Palwal? 300 goras (British Soldiers) have been killed and a thousand Jats with lathis are bringing Gandhiji here. How dare you pass this resolution?" The audience was thunderstruck and the chairman was at a loss what to do. I at once got up and said loudly: I have definite information that Gandhiji was taken to Mathura last night and his carriage was attached to the Bombay Mail this morning. This appears to be a C. I. D. man, do detain him." But the man disappeared. Suspicions about his being a C. I. D. man was confirmed because at least one Inspector, two Deputy Inspectors and a dozen other C. I. D. men were present and nobody tried to arrest the man who was spreading such horrible, untrue rumours.

"The Hartal continued on the 11th and on the 12th, although the leaders of the people tried to have the shops opened. But whenever we tried to get business resumed the people were ready with the answer that they would not end the Hartal until Gandhiji was set free. On the morning of April 12th I received a wire from Bombay, which ran as follows:—

"Just arrived and discharged from custody...Will inform later. Regret loss life some places. Absolutely necessary people restrain themselves and avoid violence. Please report this Lahore, Amritsar etc. Gandhi' On this I wired the following message to Lala Duni Chand at Lahore and Lala Kanhaya Lal at Amritsar:—

"Just received wire from Bombay. Mahatma Gandhi released. He regrets loss of life; counsels restraint and avoiding violence. It too strongly urge calm restraint. Will wire further particulars when received. God and Truth guide you all." Armed with this authority I gave public notice of this in the local Newspapers and called upon the people to end the Hartal. But just as my appeal was going round another notice appeared under the signature of Colonel Beadon saying that he had commenced inquest in proceedings and calling upon people not to be led away by outsiders and to come and make their statements before him.

"On the morning of the 13th Principal Rudra received a wire from Mahatma Gandhi in which he sent a message telling people to end the Hartal. On learning this I, with the local leaders, went about the city and we had induced some persons to open their shops when, as fate would have it, Lt. Colonel Beadon came on horseback with a strong guard and on seeing him all the shops closed again. A meeting was, however, held in the evening of April 13th, 1919 when I exhorted about 35 thousand people (assembled in meeting) to obey Mahatma Gandhi and to restore normal conditions the next day. A single resolution was passed that day, a copy of which was wired to the Private Secretary to the Viceroy at Simla. "Citizens of Delhi passed following resolution at mass meeting held this evening. 'The mass meeting of Citizens of Delhi protests against investigation instituted by Delhi Executive of incidents of March 30th on ground that being party to destruction of lives of harmless people and wounding of innocent citizens they cannot by any principle of justice and equity be allowed to sit as judges on their own actions. Meeting however invites Imperial Government to depute few officials from outside Delhi Province in order to co-operate with Non-official commission appointed by people of Delhi for investigation of causes that led to tragedy.

"While we were assembled in meeting news spread like wild-fire that the Delhi Leaders were about to be arrested, that they had been called by the Deputy Commissioner ostensibly for holding consultation but in reality for being spirited away to some unknown destination. When I entered the Motor car with Dr. Ansari and Lala Pearey Lal, people rushed and stopped the Car and began to shout :—"Please do not go to Colonel Beadon. You will be arrested. If you go, allow us all to accompany you." I knew nothing about any such meeting having been called and I assured them that I was not going. On my giving repeated assurances they left us and the Motor car flew towards Kashmere gate. In the way Dr. Ansari and Lala Pearey Lal informed me that they had been really called by Colonel Beadon and that there was no time to lose. I

compelled them to drop me at my lodging before they proceeded to Colonel Beadon's place.

Lathis Began To Appear.

"From the very morning of 14th April 1919, lathis began to appear. At noon, the Chief Commissioner called a meeting of local leaders and they all went to the Town Hall. I heard that men with lathis were going to the Town Hall. Between 3 and 4 in the afternoon one man on a Tonga and another on foot went running towards the Sadar Bazar crying that Swamiji (meaning me) had been taken to the Railway Station and a special train was waiting to take him to an unknown destination. Some hundreds of the Sadar people armed themselves with lathis and were running towards the railway station when they learnt that I was at home. Then thousands came running and boarded my humble lodging and I had to show myself to all by going downstairs before they could trust that all was right.

"In the meanwhile Hakim Ajmal Khan and other Leaders had returned from the Town Hall and after seeing them safe at Hakim Sahib's place the people went and held a meeting in the Edward Park where a C. I. D. Inspector and a Hd. constable were assaulted.

"At 6 P. M., in the night on that very date I received a letter from the Chief Commissioner asking me to join the conference at the Town Hall in the morning.

The Hon'ble Mr. Barron's strength of mind saves the Situation.

On the 15th of April I and Hakim Sahib made a tour of the city and after trying to induce the butchers to open shops we reached the town hall after 10 and saw all the other leaders there. The Chief Commissioner with the Deputy Commissioner and police and military were also there. As I went in shouts of 'Gandhiji ki jai" "Hindu Musalman ki jai" were raised outside on the Chandni Chowk Road I was asked by the authorities to go and calm the people. I went out and asked them to be quiet and they at once became silent. But there was again a stir and the reason was plain.

I looked behind and saw Col. Beadon coming out. I exhorted the people to keep quiet and took Col. Beadon in. I noticed at that time that Lathis were becoming more prominent in the crowd. After an hour's consultation it was resolved that the chaudhries and other prominent men from the city should also be called for final decision at 4 p. m. that day.

I and Hakim Ajmal Khan induced the butchers to commence business about 4 p. m. and when we reached the Town hall we saw about fifty citizens in consultation with the Chief Commissioner and other officials. On the road in front of Queen Victoria's statue some 15 to 20 thousand people were standing, out of whom more than one half had "Lathis" in their hands. On the Railway road side also 3 or 4 thousands were assembled. The people were telling me plainly that they were there to guard their leaders and if any thing went wrong they would lay down their lives to defend them (the leaders). I tried to calm them and told them that they were mistaken. They told me in reply that I was mistaken and not they, but promised to obey me in keeping quiet.

I found the Deputy Commissioner, Mr. Scott of the Police, and the military officers all very nervous. But the reason of the excitement of the people was plain. One room of the Town hall was full of armed British soldiers, more than a dozen military officers armed cap-a-pie revolvers in hand, were sitting in the conference, one machine gun was mounted on the highest roof of the Hall, and to crown all an aeroplane was flying over the city. It was rumoured that the aeroplane would suddenly alight over the Town hall roof and would take away the leaders to an unknown destination. Therefore as in the morning so in the evening of April 15th the people shouted "Gandhi ji ki jai," "Hindu Musalmin ki jai," every time the aeroplane came over their heads.

Every official appeared to be excited but there was one calm figure and that was the honorable Mr. Barron, Chief Commissioner of Delhi. No sooner he learnt, from the people's representatives, that the Hartal on April 10th commenced in order to show grief at the arrest of Mahatma Gandhi and that it was continued because the people feared that their leaders would be harmed, he at once rose equal to the occasion and wrote out his memorable proclamation, ten thousand copies of a Hindusthani translation of which were distributed the next morning. It was a memorable occasion. If the Head of the province had lost his head at that time the result would have been disastrous. There is no exaggeration, then, in saying that Mr. Barron alone saved the situation that day. I hold in my possession the draft of the translation signed by Mr. Barron which, together with a printed copy of the same I produce marked as exhibit D.

"It was growing dark and the crowd outside was becoming impatient when Mr. Barron put the draft proclamation in my hand. I at once went out and, without waiting for the door of the Queen's garden to be opened, jumped over the railing and was at once

encircled by a surging crowd of more than twenty thousands. At that time every man appeared to be carrying "Lathi". I told them to follow me to Dr. Ansari's compound (far away on the farthest corner of the city) and left on foot. The people were so much excited that they began to beat with their "Lathis" the wired drums for holding sweepings of the bazar and electric globes. I at once stopped and said in a loud voice "I will not go with you. Allow me to leave back. You promised non-violence to person and property and to fight with spiritual weapons alone and here you are breaking your vow." The vast crowd became silent for a moment and then all "Lathis" came down and a shout went forth "We admit our fault. We will not use carnal weapons, we will not; it is the spiritual force alone which we will use" and then they walked more than half a mile, to the place of meeting, without any further mischief. There was a gathering of some fifty thousand people and I read out and explained the proclamation. Dr. Ansari spoke it through a megaphone so that every word of it was heard by that huge audience. Then we dispersed.

Colonel Beadon again spoils matters.

On the morning of the 16th April all the leaders became busy in getting the shops at the Chandni Chowk opened. The work had hardly proceeded through half the Chandni Chawk when suddenly Col. Beadon, with Mr. Scott of the police and a strong guard again came riding from the clock-tower to the Fatehpuri side. That was the signal for all the shops to close again. We tried our best to persuade people to end the Hartal but the people said; "The man who calls us Badmashes will say that he succeeded in ending the Hartal. He will not compel us to do so." After trying till noon, we gave up the attempt for that day and met in consultation at Hakim Ajmal Khan's house.

"At about 3 P. M., intelligence reached us that all the additional police piquets were being withdrawn from the city and that even half of the ordinary police was being sent away. The people rose equal to the occasion and hundreds of volunteers came forward to guard the city and to keep night-watch. There was not a single report of an offence that night. In fact during the days of the Hartal crimes were conspicuous by their absence; even gambling dens and drinking shops remained almost empty.

"During half the night of April 16th the people's representatives sat in consultation because response had to be made to Mr. Barron's

sympathetic attitude. I did not join the night meeting as full 18 days abnormal pressure had told on my health. After 12 in the night Hakim Ajmal Khan, R. B. Sultan Singh and Dr. Ansari came to my lodging and woke me up. They told me that the Deputy Commissioner (Col. Beadon) had phoned offering us the help of the police for the next morning and asked my advice about it. I told them in reply that if the police interfered I would have nothing to do with the opening of the Hartal and would not join in their work on April 17th. They promised to phone to Col: Beadon my opinion and promised that they would send a conveyance for me only if police help was not to be taken.

"The next day, in spite of opposition from some misguided people, we succeeded in having all business places opened by noon. But in flat contradiction of his promise, at 11 A. M., the Deputy Commissioner sent dozens of parties of policemen with big bludgeons who began parading the streets. We telephoned the District Magistrate and the police Superintendent to call away the police and to keep them back for two hours but all to no purpose. However, having got the last shops opened we were returning back when we saw great commotion near the clock-tower. As we approached people shouted :—

"You have ruined us. You are getting the shops opened while our men are being dragged by the police to the Town hall bleeding from bayonet wounds." On enquiry we found that a youth of twenty was taken in custody because he was asking the people to close their shops I drove to Hakim Ajmal Khan's and tried three times to speak to the Town hall by telephone, but nobody replied. Then the sound of firing was heard and I again left for the Town hall. I had not proceeded more than fifty paces when the wounded were seen being brought by people on their shoulders. I returned back and began receiving wounded bodies. Dr. Hari Shanker was phoned and he came at once and after dressing the wounds took them away.

"While I came to Hakim sahib's he himself went with Dr. Ansari to the Town hall. He asked Col. Beadon to show the arrested young man (Gauri Shanker aged about 20 years) to them. They said that there were no wounds on his body and asked Col. Beadon to allow them to take away the boy and by showing the people that he was not wounded to calm them. Hakim sahib told me that as Col. Beadon thought that the prestige of the Sirkar would suffer, he did not allow it and they were at once startled on hearing the sound of firing.

"I at once wired the whole situation that day to the Viceroy, but again no notice was taken of it.

"On April 18th there was again Hartal because one of the wounded died and about 50 thousand people followed his bier to the cremation ground. There I exhorted the people to resume business the next morning and they did so, and on the morning of April 19th normal conditions were restored.

Calcutta Protest

and

Military Shooting of Demonstrators

12th April, 1919

From early in the morning of the 12th April the public of Calcutta showed unmistakable sign that they would observe the day as a mark of sorrow and protest against Mahatma Gandhi's arrest. No shops were opened, no business done in the busy quarters of Harrison Road, Colootola, Chitpore or Mechua Bazar. From early morning Marwari volunteers were posted at various places of Barabazar, Sinduria Patty, Mechuabazar, and Chitpore, to maintain peace and tranquility of the town. Passengers going by tram cars were politely requested to alight from the cars and forego the luxury of a drive and with them joined the street urchins who boarded the foot boards of the tram cars and asked the passengers with vociferous shouts of "Bande Mataram" and "Mahatma Gandhiji Ki Jai" to get down from the cars. By 7.30 or 8 o'clock in the morning all cars stopped plying along Harrison Road and Chitpore Road.

A procession composed of Hindus, Mussalmans, Marwaris etc. started from Harrison Road at about 7 A. M. and proceeded to the Ganges singing national songs and taking their bath in the holy waters. On their way back they came singing national songs amidst shouts of "Bande Mataram" and "Hindu Musalman Ki Jai" and ultimately dispersed at the Indian Home Rule League Office at about 11 A. M. There were about 60 volunteers despatched to the various quarters of the town to see that the crowd did not get anywhere out of hand and there was no cause of apprehension on that score. The crowd began to disperse at their request. They worked strenuously from Friday night and patrolled the streets all through night from 12 to 5 A.M. and maintained peace and order in the city.

When the procession was dispersing news came that 4 men had been arrested at Bow Bazar and one killed by the police. Feeling ran high at that time and a huge crowd consisting

of 2000 men proceeded to Bow Bazar to see what the matter was. They proceeded along the Chitpore Road calmly and when they arrived at Lal Bazar the police opposed them and arrested 10 or 12 from the crowd. One of them was a Musalman, two were Marwaris and five Bhatias. There was no disturbance save that they cried 'Bande Mataram' and 'Mahatma Gandhiji Ki Jai.' As this news of arrest reached Harrison Road, Babu Padam Raj Jain telephoned the matter to Mr. B. Chakravarty whose statement is given on p. 114.

About this time two motor cars with armed police arrived at the junction of Harrison Road and Chitpore Road. Every one was surprised at their sudden appearance and some excitement was marked in the crowd. Shortly after another posse of Police numbering about fifteen with rifles headed by a Sergeant came to the spot. The crowd again became excited at the sight of the police. Babu Padam Raj Jain and other volunteers began to pacify the mob. Then came two other cars with 12 European soldiers. There was an Indian officer with them. The motor cars were stopped at the crossing of the Harrison Road and Chitpore. This time the huge crowd who assembled there became very much excited. Each time the police arrived on the spot they were greeted with vociferous cheers of "Mohatma Gandhiji Ki Jai" and "Bande Mataram." Babu Madho Prasad Sukul went to an Indian officer of the police and told him that the sight of the armed police were causing excitement. He said further that there was no trouble on Friday and Saturday as there was no interference of the police in their peaceful demonstration. He asked the officer to kindly take away the police from the spot otherwise it would be difficult to keep this crowd under control. But the officer said that they heard there would be a trouble in the town, so they would not take away the police force.

At about 1 or 1.30 p.m. a large crowd assembled at the Strand Road at the foot of the Howrah Bridge. As motor cars were passing along the Strand, they were stopped and the passengers were requested to get down and walk on foot. One motor car with two Europeans came from the direction of the Howrah Station. The crowd shouted out to stop the car. The driver did not mind them. Thereupon the car was forcibly stopped and the Europeans who abused the crowd were set upon. One of the Europeans escaped to the Howrah Station and the other took refuge under the building of Messrs Joseph and Co. At this a European sergeant who was posted there asked a constable to disperse the mob. It was said that the man (the constable) refused to obey orders and was shot by the Sergeant, wounded at the backand fell unconscious on the ground. Some among the crowd fell upon the sergeant and began to belabour

him. But the sergeant managed to make good his escape. The infuriated crowd turned the petrol tank over the car and then burnt it. The people then placed the unconscious constable on a bench and carried him in procession amidst shouts of "Desha Bhakta ki Jai" "Mahatma Gandhi Ji ki Jai," along the Harrison Road. People surrounded the wounded constable in order to have a peep at him. Some were crying "Hai Hai." When the mob carried him to the junction of Chitpore Road and found Mr. B Chakrabarty who had already come there. They showed him the wounded man and narrated how the poor man was shot by the sergeant. Mr. Chakrabarty took the 'chapras' of the constable and said that he would report the matter to the Governor. It was found that the number of the constable was 14. The mob then took him to the Marwari Hospital at Harrison Road.

At the sight of the wounded constable and when the sad story of his wound got abroad the mob became quite excited. Baboo Iswari Prasad was asked by an officer of the army to disperse the mob whereupon the former took some volunteers with him and began to disperse the crowd towards the Howrah Bridge. The crowd obeyed them and for some time the mob left the main road and stood on the footpath.

At this time a fresh party of Police with sergeants and Mr. Wilson, the Deputy Commissioner of Police came to the spot and stopped near the burnt motor car. By this time the crowd began to disperse. The officer in charge of the party called Babu Saraju Prasad Singh, member of the Executive Committee of the India Home Rule League, and gave him two minutes' time to disperse the crowd. "if you fail, I will open fire." Babu Saraju and some other volunteers formed a cordon by joining hands and began to press back the crowd steadily. The sergeant was not satisfied. He came before the crowd and began to push them back. Babu Saraju Prasad intervened and said to the Sergeant " please do not get the crowd more excited by pushing them in such a way. I am dispersing them peacefully." At this the Sergeant flew into a rage and addressed him again : ' disperse the mob in two minutes or I will fire upon them.' Babu Saraju Prasad said, "you are again and again threatening us by saying that you will fire upon the crowd, but this is only exciting them all the more. Again, if you open fire, 200 or 300 people may be killed but this will not restore peace. There will be more excitement. You will create that very mischief which you are trying to prevent." Thereupon the officer went away. At this time Mr. B Chakrabarty came to the place and hearing all went to see the Governor.

Meanwhile a **Machine gun** had come and was pressing upon the crowd at the Harrison-Chitpore Road junction. Suddenly it

wheeled near the house of Rai Badri Das Bahadur facing the Howrah Bridge and a volley was discharged at the upper story of the house of Protap Narayan De; another fusillade followed and a girl in the upper story was wounded. The reason was that stones were said to be pelted at the soldiers from the crowd and the soldiers thought that the showers came from the building. Then followed a horrible scene. Murderous fires were opened and volleys after volleys discharged. When the smoke disappeared it was found that 7 men lay dead weltering in a pool of blood. They were stone dead, 13 were wounded and some of them were lying unconscious. It is not possible to estimate the number of the wounded.

At the foot of the Howrah Bridge a machine gun was also placed facing towards the Harrison Road. A strong coprs of European and Indian soldiers were guarding the place. Motorcars with armed soldiers were patrolling the Harrison Road, and at places there were posted armed soldiers.

Statement of Mr. B. Chakravarti.

The following account of the Calcutta disturbance was given by Mr. B. Chakravarty, the leader of the High Court Bar and of Bengal Nationalists, and was published by the Patrika of Calcutta.

Friday, the 11th April.

"At about 12 noon on Friday last, the 11th April, while I was in the High Court I heard for the first time that most of the shops in Barabazar and other northern parts of the town had been closed and that others were closing up at the news of Mr. Gandhi's arrest and that the Stock Exchange had also been closed. With a view to satisfy myself that everything was proceeding peacefully I sent out my friend Mr. S. N. Haldar, a fellow member of the Bar who accompanied by Mr. Provat Sen and Mr. Surendra Nath Sen went in a ticca gharry round the Northern part of the Town. They came back and reported that all was quiet and peaceful, the shops had been closed and that they received no complaints of any kind from any quarter. About 2 o'clock some friends from outside saw me in the Bar Library with a view to hold a public meeting the same afternoon at the Beadon Square at which the message of Mr. Gandhi would be explained and the people would be exhorted to conduct themselves absolutely in accordance with the terms of that message. A meeting was accordingly arranged to be held at 5-45 p. m. It was also suggested that I should go round the different parts and see for myself how things were going on. Shortly after 2 o'clock I started from the High Court in a Taxi Cab with my friend Mr. Moudad

Rahman, a fellow member of the Bar, and some other friends. We went along Chitpore Road from Lal Bazar. At the Nakhoda Mosque in Chitpore road we were requested to get down and attended a meeting which we were told was being held within the mosque. Both Mr. Mouded Rahman and myself attended the meeting accompanied by the friends who went with us. At the meeting I was asked to speak and I spoke and exhorted the audience to keep their promise not to disturb peace and order and rather submit to abuse, violence and insult and suffering and never to use anything of that nature themselves. From the Nakhoda Mosque we went all round Barrabazar and found everything quiet and the police in no way interfering with the people who were out. We came back to the Bar Library by about 4-30 p. m. At about quarter to six I started with a few friends from Clive Street and went straight to the Beadon Square where the public meeting was to be held. At the Beadon Square we found a very large gathering. We had to arrange an overflow meeting. Throughout the meeting I found the people in every good temper and humour and no one present at the meeting had the slightest apprehension about any disorder or disturbance. Every body was highly pleased with the conduct of the police. The nice police arrangements were really the talk of the town. All the speakers at the meeting—the Hindus and the Mahomedans—exhorted the people to be peaceful, law-abiding and self-controlled. After the meeting, I returned home with a few friends via Beadon Street, Cornwallis Street, College Street, Wellington Street, Wellesley Street and Camac Street. Throughout the streets I noticed the orderly conduct of the public and excellent relations between them and the members of the Police Force. At one or two places we were respectfully requested to get down from my car leaving it to me and my friends to decide whether I should do so or not. Those who approached us were requested not to use any force in this connection. They were all Bengali Bhadroloks.

Saturday, the 12th April.

"In the morning and up to about 11 a. m. I had several reports which said that everything was going on well. Then about 11-40 a. m. a gentleman called on me with a letter from Mr. Clarke, the Commissioner of Police, in which I was requested to see His Excellency the Governor at Government House. As I was getting ready to start for the Government House, I received two telephonic communications from the northern part of the town informing me that European Sergeants armed with firearms with posse of constables had arrived in several parts of Harrison Road and

friction between the Police and the people was very likely. I at once phoned to some friends in the Northern part of the town to be on the spot immediately and do everything in their power to prevent any collision. I also phoned to my friend Mr H. D. Bose at the Bar Library to the same effect and he with one or two friends arrived at Harrison Road, as he informed me, by 1 o'clock. Mr. S. N. Haldar and Mr. B. K Lahiri accompanied me to Harrison Road in my motor car and we arrived there shortly after 1 p. m. At the junction of Chitpore and Harrison Roads I saw one or two Europeans armed with revolvers in the middle of the crossing and a number of policemen in khaki bearing rifles. We got down from the car near the crossing and we met our friends who had already arrived there as also Mr. J. C. Galstaun. I addressed the people to be orderly and peaceful. They complained of the treatment received by them since the arrival of the armed police and they stated that a crowd was fired upon at the junction of the Strand and Harrison Roads, that one constable had been seriously wounded by a shot from a Sergeant. They also complained that several people had been arrested by the Police and taken away for no fault of their own. Then we walked up to the junction of Strand Road and Harrison Road when we saw the wounded constable mentioned above being carried to the Hospital by the Marwari volunteers. We noticed the crowd was somewhat excited there on account of the injury caused to the constable. It was stated that the constable was shot by one of the Sergeants, thereupon the crowd got excited and beyond control for the time being, attacked one of the Sergeants, and set fire to one of the taxi cabs Throughout our walk over Harrison Road from Chitpore Road corner to Strand Road corner we never saw any pelting or showering of missiles. It is not a fact that bricks, stones or bottles were being showered from any house at the corner of Strand Road and Harrison Road so long as we were there. Then we turned back and motored again to Chitpore Road corner asking the crowd to restrain itself and get away from the neighbourhood of the disturbance.

The Governor's Action.

"I then motored to the Government House and interviewed His Excellency about 2 p. m. His Excellency told me that he had kept back the Police but on the complaints made by some Indian gentlemen about the inconvenience caused to the members of the public travelling in tram cars and gharries His Excellency was obliged to resort to force. His Excellency also informed that two police men had been injured earlier in the day and consequently His Excellency had directed that measures should be taken and

force used where necessary. Thereupon I narrated to His Excellency my experience of that day and the day previous. I pointed out the peaceful celebration on the previous Sunday and the absence of all friction the day before, and drew His Excellency's attention to the fact that the satisfactory result was principally due to the policy of police non-interference directed by His Excelleney. I further submitted that if the European armed Police were removed, the maintenance of order would not be difficult specially when the "Hartal" was being brought to an end at a meeting to be held that afternoon in Beadon Square consequent upon the release of Mr. Gandhi. I offered to undertake the maintenance of order if the European armed police were either withdrawn or kept at a place not within the view of the public but available at a moment's notice. His Excellency thereupon pointed out the humours of the crowd and did not see his way to accede to my request. I further begged His Excellency either to accompany me or to go by himself in order to get a correct appreciation of the situation. But His Excellency did not approve of it. The interview ended with a request from His Excellency that I should do the best I could to keep peace and order and I promised I would do so.

"In the meantime as I learnt later the military had been called out and the crowd had been fired upon resulting in several regrettable casualties. I received intimation of this shortly after 4 p. m. and at once started for Harrison Road with a view to prevent further bloodshed and loss of life if possible. I was accompanied by Messrs H. D. Bose, Hirendra Nath Dutta, S. P. Rai, S. N. Haldar, B. K. Lahiri, Nalini Nath Sett. After we had proceeded for some distance along Chitpore Road we found that the Road was lined across by a number of Englsh Soldiers rifle in hand so as to prevent through passage and a number of other soldiers were standing in groups near the line all rifle in hand. The car had to be stopped and it was immediately surrounded by a group of people—some of whom were rather in an excited mood and they pointed out to the dead body of a Bengalee lying on the east foot path and shot through. Some one in the crowd handed up to Mr. B. K. Lahiri, who was in the car, a letter which was found in the pocket of the particular gentleman showing that the gentleman shot down was a mere passerby. While this was going on, some people brought up on a bamboo stretcher improvised for the occassion the body of a Marwari gentleman with his head hanging down and the body besmeared with blood. The man appeared to have received several wounds and was on the point of death. He was being carried to the Hospital. Some of the people who had assembled round us complained to me that

although no provocation had been given by the crowd, yet about 8 people had been shot down and the military instead of shooting them in the leg had lodged their bullets on the upper part of the body: they also complained that whereas most of them did not carry even walking sticks, the soldiers fully armed should have shot them down. I and my friends asked the people to be patient and to remember Mr. Gandhi's instruction which was to submit cheerfully and not to retaliate. We then got down from the car and approached the cordon of soldiers. We found that about 200 yards in front of that cordon a crowd had assembled consisting of about 2000 people who were not in any way disorderly but they were shouting out from time to time "Mahatma Gandhi ki Jai" 'Hindu Musalman Ki Jai'. I and my friends approached the officer in charge of the soldiers who told me that we should not attempt to go through the crowd as we might be assaulted. I said that the crowd consisted of my own countrymen and it was not likely that they would misbehave and that in any event we would take the risk. Being asked why the soldiers had fired, the reply was that **some brickbats had been thrown at the soldiers by the crowd and thereupon they had fired.** I said that no one among the soldiers appeared to have been hurt in any way and there seemed to have been no justification for firing. We then went ahead through the cordon. While we had advanced about 30 yards we were told to get back or be shot as there would be firing in two minutes or so. We protested against this and pointed out that the crowd was well behaved and we should be able to take them with us to the Beadon Square if we were given the opportunity to explain the position to the crowd which the soldiers were not able to do on account of their ignorance of the vernacular and their inability to make themselves understood by the people. We were thereupon allowed by the officer in charge to approach the people in front of them. The crowd was not at all troublesome and not even in an angry mood. They only said that if soldiers were to fire at them without provocation, what was their remedy? We reminded them of Mahatma Gandhi's exhortation that they should suffer and not retaliate and asked them to come with us to the meeting which was to be held in the Beador Square. The crowd followed us in a quiet and orderly fashion shouting as before "Mahatma Gandhi Ki Jai" "Hindu Musalman K Jai" and so on. At the Beadon Square a large number of people had already assembled (about 25000 people). The meeting was a very orderly one and the speakers throughout exhorted the people to proceed peacefully. The 'hartal' was put an end to and the people were requested to return to their usual avocations."

Martial Law in the Panjab

The crowded history of the Punjab after upheaval of the 10th April 1919 is one long tale of harrowing chastisements inflicted under cover of Martial Law. It is not possible here nor is it time to detail all the horrors perpetrated by paine-striken officials, maddened by mob-excess, upon the terrified people. Much light still remains to be thrown on this period of British Administration in the Punjab, and perhaps the whole truth will never be told in public.

The wholesale slaughter of hundreds of unarmed men at Jallianwalla Bagh without giving the crowd an opportunity to disperse, the indifference of General Dyer to the condition of hundreds of people who were wounded in the firing, the firing of machine-guns into crowds who had dispersed and taken to their heels, the flogging of men in public, the order compelling thousands of students to walk 16 miles a day for roll-calls, the arrest and detention of 500 students and professors, the compelling of school-children of 5 to 7 to attend on parade to salute the flag, the order imposing on owners of property the responsibility for the safety of the Martial Law posters stuck on their property, the flogging of a marriage party, the censorship of mails, the closure of the Badshahi Mosque for six weeks, the arrest and detention of people without any substantial reason and especially of people who had rendered services to the State in connection with the War-Fund or otherwise, the flogging of six of the biggest boys in the Islamiah School simply because they happened to be schoolboys and to be big boys, the construction of an open case for the confinement of arrested persons, the invention of novel punishments like the crawling order, the skipping order and others unknown to any system of law, civil or military, the handcuffing and roping together of persons and keeping them in open trucks for 15 hours, the use of aeroplanes and Lewis guns and the latest paraphernalia of scientific warfare against unarmed citizens, the taking of hostages and the confiscation and destruction of property for the purpose of securing the attendance of absentees, the handcuffing of Hindus and Muhammadans in pairs with the object of demonstrating the consequences of Hindu-

Muslim unity, the cutting off of electric and water-supplies from Indian houses, the removal of fans from Indian houses and giving them for use by Europeans, the commandeering of all vehicles owned by Indians and giving them for Europeans for use, the feverish disposal of cases with the object of forestalling the termination of Martial Law, are some of the many incidents of the administration of Martial Law, which created a reign of terror in the Panjab and have shocked the public. It is a strange feature of the mental constitution of those military officers that they should have imagined that the steps they took were a remedy for the sullenness of the people and a means for promoting the popularity of the Government. We are naively told by General Sir William Benyon that, instead of being unduly severe, the administrative erred on the side of leniency and that he and Sir Michael O'Dwyer approved of General Dyer's exploit. (Sir P. S. Sivaswamy Iyer in his introduction to "Martial Law in Panjab" issued from Madras Liberal league).

THE JHALLIANWALLA BAG MASSACRE.

Much of what occurred in Amritsar after the 10th remained a mystery for some time as the Panjab was a sealed book for the outside public. No news were allowed to be transmitted save that passed by the Government censor. It was only after the cessation of Martial Law that the public outside Panjab came to know of its horrors. The following is a short and connected account gathered from the official evidence before the Hunter Committee (See Appendix).

Mr. Miles Irvine, the Deputy Commissioner of Amritsar, received order from Sir Michal O'Dowyer's Government for the arrest and deportation of Drs. Satyapal and Kitchlew on 8th April. On the 9th Capt. Massey, the officer commanding at Amritsar, was summoned by Mr. Irvine and was informed of the order and was told to be in readiness. The deportation was to be on the following morning. It was decided that the Drs. were to be invited to the Deputy Commissioner's bunglow and removed without notice in motor cars with escorts to Dharmsala, a hundred miles away from Amritsar. Preparations were accordingly made. The Dy. Com. issued orders that whereas he had reasons to fear that crowds would collect at the Civil Station on the 10th nobody should cross the Railway line to reach the civil station on the other side. Picquets were disposed in anticipation of trouble. Orders were passed privately on the 3 European Magistrates that crowds at all costs be dispersed, persuasion first and then armed

force if necessary. The military under Capt. Massey were kept ready at convenient dispositions.

Next morning Drs. Satyapal and Kitchlew were sent for and they came at about 10 A. M. They were at once shown the order. In half-an hour they were packed up in a motorcar and despatched with military escort to Dharamsala. The people who accompanied them were kept back for some time so that the deportees might have a good start before the town came to know of the event. As apprehended the news sapread like wild fire in the town and crowds began to collect at about noon. And then began the awful rush of the mob, the fire by the military and police, and the acts of incendiarism narrated before (p. 83). The authorities were prepared for all this but, as says Mr. Irvine "he provided for 3 times but unfortunately ten times happened"!

Quiet prevailed in the evening Mr. Kitchen, the Commissioner of the Lahore Division (hwich included Amritsar) with the Deputy-Inspector General of Police came over from Lahore. The headquarters of the officials and the military were at this time the Railway station. European Residents of the Town were being escorted to the fort. Communication with the City Kotwali Police was cut off. At about 11 o'clock at night re-inforcements arrived from Lahore in Command of Major Medonald. A military party was sent into the city and as it was feared that they would have to fight their way in, no Civil Magistrate accompanied the party. Police emissaries were also sent into the city to tell the people that the military was in command of the situation.

11th April 1919 Amritsar was in the hands of the military. The Civil Administration admitted their incompetence. In the morning certain people saw Mr. Kitchen regarding the burial of the dead and he accorded the necessary permission and prohibited all sorts of demonstration. He also issued instructions stopping third class booki g for Amritsar from the neighbouring stations. The Electric power and water supply of the town were cut off with a view to punishing the whole town; and this was continued for several days. A rumour was current that the water had been poisoned. The electric supply was cut off and the whole town was left in darkness on the plea of preventing crowds roaming through the night. The city was declared to be in a state of rebellion. The European population was collected in the Civil Station and proper arrangements were made for their protection.

On the evening of the 11th **General Dyer** came with fresh reinforcements. From this moment Amritsar was under the

heels of this man now known all over the world for his exploits in Jallianwala Bag.

General Dyer was in command of the 45th Brigade at Jullundur, and in response to a request for help from Amritsar on the 10th April, he had sent one hundred British and two hundred Indian soldiers to that city. The number he sent was 100 in excess of what was asked for, and his reason for doing so was that he had heard there was serious danger, and "as he had a large force under him, no harm was done by sparing a 100 men more." On the 11th April, he received a telegram which said that the City also belonged to his command, and proceeding by motor car he arrived at Amritsar at about 9-30 p. m. When he arrived he had a conference with the Deputy Commissioner, the Superintendent of Police and other officials present. The Deputy Commissioner told him that he could not deal with the situation and that he should take matters in hand. On the night of his arrival, he proceeded to the Kotwali inside the city and saw Asraf Khan, Police Inspector, and brought him back to the railway station when a further conference was held. Later on, during the night he organised the troops, and also changed the Headquarters to the Rumbag garden. On the morning of the 12th April, he went round and through the city with a column consisting of 120 British troops, and 320 Indian soldiers, and two armoured cars. At one place in his route the mob had collected and he had difficulty in dispersing them. There he actually wanted to fire but did not do so thinking that he would better give them warning. There was an aeroplane hovering over head. It was not under his command, but used to give him news of what was going on. During the 12th April, arrests were made right and left by the police under military protection. That evening, a proclamation was prepared, and read warning people against damage to property and violence and against collecting more than four in number in the streets.

On the 13th morning Genl. Dyer marched through the city with troops and issued a second proclamation (the Seditious Meetings Act) warning the people against assembling and holding meetings which were declared liable to be dispersed by force of arms: "*Golee sa chalay litter daga*,"—that was the punishment held out. The proclamation was read from different places accompanied by beat of drum and it took several hours to parade through the city. At about 1 P. M. he heard that a meeting was to be held in the afternoon at the Jhalianwala bagh. At first he did not believe it but nonetheless made proper disposition of his troops. At 4 P. M. he got definite news that a

crowd had collected at the bagh and a meeting was going to be held. Immediately he marched off with 25 British rifles, 40 Gurkhas, 25 Indian rifles, and two armoured cars with machine guns. He dropped off a few men as pickets *en route* and arrived at the bagh at about 5 P. M.

It was the *Baisakhi* day of Amritsar. Thousands annually meet here on this day to hold an annual fair and come over from long distance. Thousands of Sikhs and Jats had assembled here from distant places innocent of riots and proclamations. Thousands also of Amritsar people had collected not knowing that the proclamation in the morning included also a non-political national *mela*. The mela people numbered between 16 to 20 thousand ; they were all collected inside the bagh which is a square plot of land surrounded on all sides by houses and high walls with only 4 very narrow entrances allowing not more than 2 persons to walk abreast.

Such was the pin-hole, more congested now than the mythical Black hole, in which was enacted the most horrible massacre of modern history. On arriving at the scene the General entered with his troops through one of the entrances but had regretfully to leave the armoured cars outside because of its narrowness, and forthwith proceeded to a high ground, deployed his troops to the right and the left, and within 30 seconds opened fire. The firing was individual and not volly-fire. It continued for 10 minutes ; from time to time he directed it against where the crowd was thickest. It continued till ammunition ran short. Altogether 1,650 rounds were fired. Some 5 to 6 hundred were killed outright, and three times the number lay wounded ! People ran as soon as the firing commenced. There was no warning, no demonstration. The unarmed innocent people, most of them villagers, sat at that time squatting on the ground, knew not what was happening. They fled and fell. They tried to climb up the high walls and fell. They cried, they shrieked, panick-striken, terror-striken, were "*gelle sa chittar-bhittared*"—their plight can better be imagined than described !!!

Before the Hunter Committee the General confessed that he could have dispersed the crowd easily without firing but then, he said "they would have come back and laughed at me, and I would have made myself, what I consider, a fool of myself." His object was to go on firing till the crowd dispersed and as, he said, a little firing would not have been sufficient, he considered it his duty to fire and fire well. After that awful carnage, the General went away with his troops and did not care for the medical or any relief for the dead and wounded lying on the

field of his exploit ! 'That was not his job', he said. They were left there unattended for full two days and nights, and no relief came. "They could go to the hospital" was the General's opinion, and no body from the hospital or elsewhere could go to them. Children, babes in arms, women, boys and elders lay weltering there in their blood and mangled limbs, with the April Sun of Amritsar blazing fully on their face and not a water for the parched lips !

What happened next, how Amritsar and other places of the Punjab fared under Martial Law, will require another volume for recording the touching tales of woe and suffering inflicted on the miserable people. Suffice here to chronicle that the gallant hero of Jhallianwalla kept Amritsar under his dutiful care for about a month more. His view was that Martial Law came into existence *ipso facto* from the time he took command, although it was actually proclaimed on the 15th. On the 14th he held a durbar and compelled people to open shops. He visited the whole district with a mobile column, and demonstrated more effectively than by word of mouth the supreme might of the British Raj. He issued orders compelling Indians to crawl on all fours in the street, he made all Indians in whatever station of life "Salaam" every European, for 'India is a land of Salaams.' He flogged people too numerous to mention in the open streets for trivial offences against Martial Law orders. He arrested almost all the respectable people of the place, and made special constables of all legal practitioners.

Martial Law at Lahore

Towards the evening on that day news of the occurrences at Amritsar had come through. The authorities immediately took precautions, picketing the Telegraph Office with forty men, the Gymkhana Club with forty-five men, Government House with fifty men, Faletti's Hotel with twenty-five to thirty men and the Punjab Club with twenty-five men. At dusk they heard a report that a mob was coming out by the Lahore Gate down the Anarkhali up to the Mall. The mob approached the Telegraph Office and turned away on seeing the picket and went up further. Soon after they were barred by a small police force and on the crowd refusing to disperse Mr. Fyson, Deputy Commissioner, ordered the police to open fire. After a few shots the crowd was pressed back and eventually dispersed. The place where the firing took place was about a thousand yards away from the Gymkhana Club

where a large number of European ladies and children were collected. At ten o'clock the same night, the police fired a second time at Anarkali. No shot was fired by a soldier. During the course of the night the police evacuated the city thinking it dangerous to remain in it any longer. The next day the 11th April the 43rd Brigade headquarters arrived in Lahore and pickets were posted at the railway station, railway bridges, water works, electric station, and central gaol. On the 12th, April the military under Col. Frank Jhonson was ordered to go into the city taking with him a force of eight hundred men. He entered the city by the Delhi Gate and was supported by four aeroplane overhead. On arrival at the Delhi Gate, he issued certain warning to the crowd that had collected there through Mr. Fyson. The mob appeared to be solemn and bad tempered, not to say savage. In the course of his march when he reached Hira Mandi, the police force which constituted his rear guard was pelted with stones. The police opened firekilling and wounding several. He entered the city at 9-30 in the morning and came back at 1-30 in the afternoon. He left three detachments inside the city giving orders that no detachment should move about unless it consisted of at least two hundred men.

On the 13th and 14th April there were no actual disturbances but "hartal" continued in a more organised form. It paralysed the life of the city which was in that condition when martial law was proclaimed on the morning of the 15th April. Lahore was constituted into a separate area under martial law, and Col. Frank Jhonson was in command. At 11 A.M. on the 5th April he issued his first proclamation, acquainting the people that martial law had been introduced. The proclamation was printed at the Government Press in English and the vernaculars and was posted at several places.

From this date begins the Martial Law administration of Lahore under Col. Frank Jhonson, and it continued till the end of May. Some of the salient features of this period are the numerous Martial Law orders issued by the Colonel a few of which are given in the following pages by way of illustration, the arrest and deportation of many leading public citizens well-known for their large hearted philanthropic and public activites, the closing of *Langer Khanas* or places of congregation of the poorer people to have their frugal daily meals; the requisitioning of all cars, carriages and vehicles owned by Indians for the use of Europeans generally, and the cruel punishments inflicted upon thousands of innocent school and college boys because of the verile ebullitions of a few against the military. Third class

booking at the Railway Station was stopped on the plea of limiting the activity of the people from overflowing into the neighbouring places. Martial Law orders were passed for the immediate raising of the *hartal* and opening shops on pains of their being forced open and the goods distributed by the Soldiers. This was at first applied to the Anarkali Bazar and was gradually applied to the rest of the town. Orders were also passed fixing the price of all commodities, including milk to stop adulteration and profiteering. Even religious places did not escape the tender attentions of the Colonel. The Badshahi Mosque was closed for the public for 6 weeks for there was held the Hindu-Moslem fraternisation and the burning of the C. I. D. Police pugree on the 12th which was regarded as seditious. Thousands of pious Mahomedans went without their prayers. For dealing with contraventions of the Martial Law orders Summary Courts were established superseding the ordinary civil courts and about six hundred cases were decided, without record, without evidence, without any of the usual safeguards of Law Courts. Flogging was resorted to right and left, 66 persons were flogged, each getting 50 lashes in the average.

At the Sanatan Dharma College a Martial law order was posted on the outer wall but was found torn. For this Col. Frank Jhonson arrested all the students and Professors, 500 in all and had them marched to the fort, three miles away, with all their beddings on their head. They were kept under arrest for two days. Other orders on students of other colleges were passed requiring them to walk 19 miles a day in the hot month of May to attend roll calls. During the march many students used to faint away but none was killed. On alleged disfiguring of pictures of British soldiers, the whole student inhabitant of Lahore was wantonly punished. The revered Indian Principal of the Dayal Singh College was fined Rs. 250, and humiliated by being held up by soldiers with drawn swords till he paid the fine. His fault was that a poster on the wall of his College was torn—it afterwards transpired by police spy! A marriage party of villagers with its priest was arrested and flogged in public for the offence of being more than 10 in number! A rigid censorship was kept on all correspondence of the Indian population. Lawyers from outside Punjab were not allowed to enter Lahore in the innumerable Martial Law trials held during the period.

The Bengal Regulation of 1804.

The important provision in the old Bengal State Offences Regulation, 1804, promulgated by the Viceroy in the Martial Law Ordinance, runs as follows .—

"The Governor-General in Council is hereby empowered to suspend, or direct any public authority or officer the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature within any *zilla*, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William and to establish Martial law therein, for any period of time which the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government in any part of the territories aforesaid ; and also to direct the immediate trial, by courts martial, of all persons owing allegiance to the British Government, either in consequence of their being born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

"Any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceeding section and who shall be convicted thereof by the sentence of a court martial during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly by being hung by the neck till he is dead.

"All persons who shall in such cases, be adjudged by a court martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

"The Governor-General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, instead of causing such persons to be tried by court martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary."

Martial Law Orders.

The following are some of the more important and typical Martial Law Orders issued by Capt, Frank Jhonson, the Martial Law Officer at Lahore,

Order No. 1, 15-4-19.

Whereas the Government of India has for good reasons proclaimed Martial Law to the districts of Lahore and Amritsar and whereas superior military authority has appointed me to command troops and administer Martial Law in a portion of the Lahore district, now known as the 'Lahore Civil' command, whose boundaries may be described as follows :—

The Civil Lines ;

The Municipality and City of Lahore ;

The Fort ;

The Mogulpura Works ;

and any other area not included in the above, between the Ravi river and Lahore branch of the Badri Doab canal inclusive within three miles of the Central Telegraph Office, Lahore, and whereas Martial Law may be briefly described as the will of the Military Commander in enforcing law, order and public safety—

I make known to all concerned that until further orders by me the following will be strictly carried out :—

1. At 20·00 hours each evening a gun will be fired from the Fort, and from that signal till 05·00 hours on the following morning no person other than a European or a person in possession of a military permit signed by me, or on my behalf, will be permitted to leave his or her house or compound or the building in which he or she may be at 20 hours. During these prohibited hours no person other than those excepted above will be permitted to use the streets or roads, and any person found disobeying the order will be arrested and if any attempt is made to evade or resist, that person will be liable to be shot.

This and all other orders, which from time to time I may deem necessary to make, will be issued on my behalf from the water-works station in the city whether every ward will keep at least four representatives from 6 A. M. till 17·00 hours daily to learn what orders if any are issued and to convey such orders to the inhabitants of their respective wards. The onus of ascertaining the orders issued by me will rest on the people through their representatives.

2. Loyal and law-abiding persons have nothing to fear from the exercise of Martial Law.

3. In order to protect the lives of his Majesty's soldiers and police under my command, I make known that if any firearm is discharged or bombs thrown at them the most drastic reprisals will instantly be made against property surrounding the scene of the outrage. Therefore it behoves all loyal inhabitants to see to it that no evil-disposed agitator is allowed on his premises.

4. During the period of Martial Law I prohibit all procession, meeting or other gatherings of more than 10 persons without my written authority and any such meetings, gatherings or processions held in disobedience of this order will be broken up by force without warning.

5. I forbid any person to offer violence or cause obstruction to any person desirous of opening his shop or conducting his business or proceeding to his work or business Any person contravening this order will be arrested, tried by a summary court and be liable to be shot.

6. At present the city of Lahore enjoys the advantage of electric lights and a water-supply; but the continuance of these supplies will depend on the good behaviour of the inhabitants and their prompt obedience to my order.

Order No. 2.

All tongas and tum-tums whether licensed for hire or otherwise, will be delivered up to the Military Officer appointed for that purpose at the Punjab Light House ground by 17·00 hours to-day, Tuesday the 15th April; drivers will receive pay and horses be rationed.

Order No. 3.

All motor-cars or vechicles of any description will be delivered to the Military Officer appointed for that purpose at the Punjab club by 17·00 hours this day.

Order No. 4. 15 April.

By virtue of the powers vested in me I have prohibited the issue of third or intermediate class tickets at all railway stations in the Lahore Civil Command, except only in the case of servants travelling with their European master or servants or others in the employ of the Government.

Order No. 5. 15th April.

Whereas, from information received by me, it would appear that shops, generally known as Langars, for the sale of cooked food, are used for the purpose of illegal meetings, and for the dissemination of seditious "propaganda," and whereas I notice that all other shops (particularly in Lahore city) have been closed as part of an organized demonstration against his Maiesty's Government, now, therefore, by virtue of the powers vested in me under

Martial Law, I order that all such Langars or shops for the sale of cooked food in the Lahore civil area, except such as may be granted an exemption in writing by me shall close and cease to trade by 10·00 hours to-morrow, Wednesday, the 16th April 1919.

Disobedience to this order will result in the confiscation of the contents of such shops and the arrest and trial by summary procedure of the owner or owners.

Order No. 6.

Whereas I have reason to believe that certain Munshis, Agents, Dalals and Chuprasses employed by legal practitioners in Lahore are engaged in disseminating seditious "propaganda" therefore by virtue of the powers vested in me under Martial Law, I make the following orders :

(1) No such Munshi, Agent, Dalal or Chuprassee shall leave the Lahore Civil command without a permit signed by me or on my behalf.

(2) Every legal practitioner resident in this command will submit to me through the Deputy Commissioner of Lahore by 16·00 hours to-day a complete list of every Munshi, Agent, Dalal or Chuprassee directly employed by him.

Order No. 7.

Whereas I have reason to believe that certain students of the D. A. V. College in Lahore are engaged in spreading seditious "propaganda" directed against his Majesty's Government, and whereas I deem it expedient in the interests of the preservation of law and order to restrict the activities of such students, I make the following order :—

All students of the said college now in this Command area will report themselves to the Officer Commanding Troops at the Bradlaugh Hall daily at the hours specified below and remain there until the roll of such students has been called by the Principal or some other officer approved by me acting on his behalf, and until they have been dismissed by the Officer Commanding Troops at Bradlaugh Hall.

07·00 hours	11·00 hours
15·00 hours	19·30 hours

Order No. 8.

Whereas some evilly-disposed persons have torn down or defaced notices and orders which I have caused to be exhibited for information and good government of the people in the Lahore (Civil) Command —

In future all orders that I have to issue under Martial Law will be handed to such owners of property as I may select and

it will be the duty of such owners of property to exhibit and keep exhibited and undamaged in the position on their property selected by me for all such orders.

The duty of protecting such orders will therefore devolve on the owners of property and failure to ensure the proper protection and continued exhibition of my orders will result in severe punishment.

Similarly, I hold responsible the owner of any property on which seditious or any other notices, proclamations or writing not authorised by me are exhibited.

Order No. 27

As the Officer Commanding has reason to believe from information laid before him that a large number of students at the King Edwards Medical College, Lanore, have openly given expression to seditious sentiments and cries, he therefore makes the following order :—(1) No student on the rolls of the said College at present residing in the area under my command shall leave such area without a permit signed by me or on my behalf. (2) All students of 1st, 2nd, 3rd and 4th years of the M. B, B. S. class of the said College now residing in the area under my Command, except those as to whose loyalty I am satisfied and to whom on the recommendation of the Principal I may grant exemption, will from the promulgation of this order report themselves to the Officer Commanding troops at Patiala House daily at 7 a.m., 11 a.m , 3 p.m., 7 p.m., and remain theré—until the roll of such student has been called by an officer appointed by the Principal and approved by me, and until they have been dismissed by the officer Commanding. Fourth year students are exempted from attendance at the 7 a.m., roll-call. (3) At 11 a. m. on Saturday 29th April, in lieu of the roll-call at Patiala House such roll-call will take place at Fort Lahore and every such student in possession of a cycle will there and at that hour deliver it to the officer appointed by me, and thereafter during the continuance of martial law, or until since time as I rescind or modify this order, any such student in possession of a cycle shall be deemed to have contravened martial law and I warn all such students that absence from any roll-call without reasonable excuse will be severely punished.

Order No. 29

From and after 5 p. m. on the 25th April until further notice it shall be a contravention of Martial law for any dealer in atta to (1) refuse to sell atta when requested to do so, and (2) to supply less than 6½ (six and a half) seers per rupee, which will allow such retail dealers the excellent profit of annas 5 per

maund or say 5 per cent, per diem of h's capital involved. The current retail price for atta was 5 seers per rupee, whilst atta can be purchased by retail shopkeepers at Rs. 5-13 per maund so that succh shopkeepers were making a profit of Rs. 17-4 per maund, which is approximately equivalent to 25 per cent. per diem. Disobedience to this order will result in prompt and severe punishment under Matial law.

Order No. 30.

Whereas it has been proved to me that certain students in Lahore Colleges are in the habit of defacing with obscene and filthy comments, pictures appearing in illustrated papers of members of His Majesty's Naval and Military Forces, Civil or other Services,

And whereas such obscene and filthy comments are calculated to promote disaffection and bad feeling, and to be prejudical to good order,

Now, therefore, I warn all concered that it shall be deemed to be a contravention of Martial Law for any person to deface or mark any picture or letterpress purporting to represent or refer to British subjects by signs, drawings or words calculated to bring contempt, ridicule or dislike on such British subjects.

And such prohibition is also extended to the use of words, signs or gestures directed at, addressed or referring to any such British subjects.

And I shall hold responsible for such outrages on illustrations all who are inmates, owners and (or) occupiers, students and teachers, of the premises in which such damaged or defaced picture or literature is discovered.

Order No. 32.

From 2 P.M. Wednesday 30th April salt other than imported table salt shall be supplied at a price not exceeding anna one per seer, a price which I shall shortly further reduce after I consider sufficient time has been allowed to enable small dealers holding stocks purchased at high rates to dispose of or reduce such stocks.

I further order that from and after 2 P.M. Wednesday not less than 7¾ seers of wheat shall be supplied for a rupee. I warn all concerned that adulteration on small measure of all articles whether a controlled article like utta, milk, salt and wheat or otherwise will be deemed an offence against Martial Law and dealt with by me accordingly.

Whereas by Martial Law Order No. 14 of 17th April, 1912, I warned dealers in the area under my command against charging exorbitant prices for their goods.

And whereas I deem the present prices charged for milk viz.

3 annas per seer for cow's milk, and 4 annas per seer for buffalo's milk to be unjustifiably exorbitant, and to press heavily on the poorer people—now, therefore, by virtue of the powers vested in me by Martial Law I order that from and after 17·00 hours this day and until further notice it shall be a contravention of Martial Law for any person who yesterday was a dealer in milk—

(1) to refuse to sell milk when in possession of milk and requested to do so;

(2) to adulterate milk, or

(3) to charge more than Annas 2½ per seer for cow's milk and Annas 3 per seer for buffalo's milk.

And I warn concerned all that any disobedience of this Order will result in prompt and severe punishment under Martial Law.

Order No. 33.

Whereas it has come to my knowledge that attempts are frequently made to extract money from persons with a view to either saving them from penalties for intentional or other breaches of Martial Law or for purpose of removing them from the restrictive incidence of such Martial law or other laws, and whereas I deem such conduct gravely detrimental to the good order and the governance of the area under my command: I therefore by virtue of the powers vested in me under Martial Law Regulation No. 15, declare it an offence under Martial Law for any person in the said area to offer or receive money or other valuable consideration or to act as agent or go-between in any transaction or proposed transaction by virtue of which the person paying such money or giving such considerations seeks or is promised to evade any penalties of proceedings or to obtain any benefit of any kind whatsoever under Martial or other laws or orders, and I warn all concerned that any person convicted of any breach of this order on said area is liable to two year's imprisonment or fine and whipping.

Order No. 36.

Whereas by the Martial Law Order No. 27 of the 25th April 1919, I ordered that certain action is to be taken against all students on the roll of the King Edward Medical College, Lahore, on account of the seditious conduct of certain of them and whereas the Principal of the said College has now reported to me that he has inflicted the following punishments, that is to say (1) to be forthwith expelled from and permanently removed from the roll of the College: one First Year Student one Second Year Student, two Third Year Students and six Fourth Year Students, (2) two suffer loss of one year's seniorty: two First Year students, three Second Year students

and three Fourth Year students; (3) to forfeit their scholarships: two First Year students, two Third Year students and two Fourth Year students, (4) to have their scholarships suspended for three months: four First Year students, four Second Year students, four Third Year students, and four Fourth Year students.

And whereas I consider the aforesaid punishment although very merciful to be sufficient to restrain the remaining and future students from being misled into disloyal and seditions action, I direct that adequate disciplinery action having thus been taken against the College from the promulgation of this order, students shall be relieved of all restrictions and liabilities imposed by the Martial Law Order No. 27.

Order No. 44.

Whereas by various Martial Law Orders I ordered certain action to be taken with a view to restraining seditious activities of students of certain colleges and whereas the Principals of some of the colleges of Lahore have now reported to me that they have inflicted the following punishments, that is to say. (1) Dayal Singh College; (A) expulsion from college of one fourth year student, one third year student, three second year students, two first year students, (B) to rusticate for one year two fourth year students, two second year students, one first year students. (C) to be put back by one year, two fourth year students, twelve first year students, (D) to be suspended for three months four first year students, (E) to be deprived of their scholarships for three months; two first year students. (F) fines Rs. 20 each, four fourth year students, two second year students. (G) fines Rs. 10 each, two hundred nineteen students. (H) to find security of Rs. 25 each two hundred forty-five students (I) all students who failed to appear for examination on the 11th April 1919, to be declared to have failed in the subjects of such examination.

(2) Sanatan Dharma College:—(A) to find security of Rs. 20 each: eighteen students (B) to find security of Rs. 10 each: fifty three students (C) to find security of Rs. 5 each: seven students.

(*Note*) The students of this college were also interned for a period in the fort.

(3) Forman Christian College:—(A) expelled: one-sixth year student; (B) rusticated for one year: two third year students; (C) detained for one year and not allowed to live in any hostel belonging to the college: one sixth year student; (D) detained for one year: one third year and one fourth year student; (E) fined Rs. 25 each: two fourth year students; (F) fined Rs. 10 each: three third year students; (G) every resident of 2 hostels of the college who did not attend college on the 11th and 12th without due reason fined Rs. 5 each.

THE

Rowlatt Bills.

THE CRIMINAL LAW AMENDMENT BILL AND EMERGENCY POWERS BILL.

THE

Indemnity Bill.

Proceedings of the Imperial Legislative Council, Delhi and Simla 1919.

Part II.

The Criminal Law Amendment Bill

BILL NO. I OF 1919.

ROWLATT BILL NO. II.

A Bill to provide for the amendment of the Indian Penal Code and the Code of Criminal Procedure, 1898.

Whereas it is expedient to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, in order to deal more eeffctively with certain acts dangerous to the State ; it is hereby enacted as follows :—

1. This Act may be called the Indian Criminal Law (Amendment) Act, 1919.

2. In Chapter VI of the Indian Penal Code after section 124 A the following section shall be inserted, namely :—

"124-B. Whoever has in his possession any seditious document intending that the same shall be published or circulated shall, unless he proves that he had such document in his possession for a lawful purpose, be punishable with imprisonment which may extend to two years or with fine or with both."

Explanation.—For the purposes of this section the expression "seditious document" means any document containing any words, signs or visible representations which instigate or are likely to instigate whether directly or indirectly—

(a) The use of criminal force against His Majesty or the Government established by law in British India, or against public servants generally or any class of public servants or any individual public servant, or

(b) The commission or abetment of any thing which is an offence against sections 121, 121-A, 122 or 131.

3. After section 196 A of the Code of Criminal Procedure, 1898, hereinafter referred to as the said Act, the following section shall be inserted, namely :—

"196-B. In the case of any offence referred to in section 196 or 196-A, the District Magistrate or the Chief Presidancy Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary inquiry by a police

officer not below the rank of an Inspector in which case such police-officer shall have the powers referred to in section 155 (3)."

4. To section 343 of the said Code, the following proviso shall be added, namely :—

"Provided that a promise of protection to an accused person against criminal force or any promise properly incidental to a promise of such protection, shall not be deemed to be the use or influence within the meaning of this section."

5. After section 510 of the said Code, the following section shall be inserted, namely :—

"510 A. On the trial of an offence under Chapter VI of the Indian Penal Code, the following facts shall be relevant, namely :—

(a) that the person accused has previously been convicted of an offence under that Chapter, and

(b) that such person has habitually and voluntarily associated with any person who has been convicted of an offence under that Chapter :

Provided that such facts shall nevertheless not be admissible in evidence under the provisions of this section, unless written notice of the intention to call evidence thereof has been served on the accused at least seven days before the commencement of the trial, together with reasonable particulars of the conviction or association intended to be proved."

6. After section 565 of the said Code, the following section shall be inserted namely :—

"565-A. (1) When any person is convicted of an offence punishable under Chapter VI of the Indian Penal Code, the Court may, if it thinks fit at the time of passing sentence on such person, order him, on his release after the expiration of such sentence, to execute a bond with sureties for his good behaviour so far as of offences under Chapter VI of the said Code are concerned, for such period not exceeding two years as it thinks fit."

(2) An order under sub-section (1) may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(3) If the Court makes an order under subsection (1), it shall further direct that, until the person who is the subject of the order furnishes the required security, such person shall notify to the Local Government or to such officer as the Local Government may by general or special order appoint in this behalf, his residence and any change of residence after release for the period for which security is required.

(4) Where any person is under an obligation to notify, in accordance with the provisions of sub-section (3), his residence and any change of residence after release, the Local Government may by order in writing direct that such person—

(a) shall not enter, reside or remain in any area specified in the order,

(b) shall reside or remain in any area in British India so specified, and

(c) shall abstain from addressing public meetings for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or of any political subject or for the distribution of any writing or printed matter relating to any such subject.

(5) Any person refusing or neglecting to comply with any direction under sub-section (3) or any order under sub-section (4), shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code.

(6) If the conviction is set aside on appeal or otherwise all orders made under the provisions of this section shall become void.

Explanation.—In this sub-section the expression "public meeting" has the same meaning as is assigned to it by section 3 of the Prevention of Seditious Meetings Act 1911.

7. In Schedule II of the said Code in the entries relating to Chapter VI, after the entry relating to section 124A, the entry contained in the Schedule shall be inserted.

THE SCHEDULE.

1 Section	2 Offence	3 Whether Police may arrest without warrent or not	4 Whether warrant or summons shall ordinarily issue	5 Whether Bailable or not	6 Whether compoundable or not	7 Punishment	8 By what Court triable
124B	Possession of seditious Documents	Ditto	Ditto	Ditto	Ditto	Imprisonment for 2 yrs and fine	Ditto

The Criminal Law

Emergency Powers Bill.

THE MAIN ROWLATT BILL

THE SECOND BILL.

The second Bill which is intended to make provision in special circumstances to supplement the ordinary Criminal Law and for the exercise of emergency powers by Government, runs thus :

BILL NO. II OF 1919.

Whereas it is expedient to make provision that, in special circumstances, the ordinary criminal law should be supplemented and emergency powers should be exercisable by the Government ;

and whereas the previous approval of the Secretary of State in Council has been accorded to the making of this law ; it is hereby enacted as follows :—

1. (1) This Act may be called the Criminal Law (Emergency Powers) Act, 1919.

(2) It extends to the whole of British India.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

"Chief Justice" means the Judge of highest rank in a High Court ;

"The Code" means the Code of Criminal Procedure, 1898 ;

"High Court" means the highest Court of Criminal appeal or revision for any local area :

"Offence against the State" means any offence under Chapter VI of the Indian Penal Code, and any attempt or conspiracy to commit, or any abetment of, any such offence ; and

"Scheduled offence' means any offence specified in the Schedule.

(2) All words and expressions used in this Act and defined in the Code, and not herein before defined, shall be deemed to have the meanings respectively attributed to them in the Code.

Part I.

3. If the Governor General in Council is satisfied that scheduled offences are prevalent in the whole or any part of British India, and that it is expedient in the interests of the public safety to provide for the speedy trial of such offences, he may, by notification in the "Gazette of India," make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

4. (1) Where the Local Govetnment is of opinion that the trial of any person accused of a scheduled offence should be held in accordence with the provisions of this Part, it may order any officer of Government to prefer a written information to the Chief Justice against such person.

(2) No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but, save as aforesaid, an order under that sub-section may be made in respect of any scheduled offence whether such offence was committed before or after the issue of the notification under section 3.

(3) The information shall state the offence charged and so far as known the name, place of residence, and occupation of the accused, and the time and place when and where the offence is alleged to have been committed and such other facts within the knowledge of the prosecution as shall be reasonably sufficient to enable the accused to meet the accusation.

(4) The Chief Justice may by order require any information to be amended so as to supply further particulars of the offence char- ged to the accused, and shall direct a copy of the information, or the amended information as the case may be, to be served upon the accused in such manner as the Chief Justice may direct.

5. Upon such service being effected, and on application duly made to him, the Chief Justice shall nominate three of the High Court Judges (hereinafter referred to as the Court) for the trial of the information and shall fix a date for the commencement of the trial :

Provided that when the total number of Judges of the High Court does not exceed three, the Chief Justice shall nominate not more than two such Judges, and shall complete the Court by the nomination of one or, if necessary, two persons of either of the following classes, namely :—

(a) persons who have served as permanent Judges of the High Court ; or

(b) with the consent of the Chief Justice of another High Court, persons who are Judges of that High court.

6. The Court may sit for the whole or any part of a trial at such place or places in the province as it may consider desirable :

Provided that the Governor General in Council if he is satisfied that such a course is expedient in the interest of justice, may, by notification in the "Gazette of India" direct that the Court shall sit for the whole or any part of a trial at such place or places as he may specify in the notification,

7. The provisions of the Code shall apply to proceedings under this Part, in so far as they are not inconsistent with the provisions therein contained, and such proceedings shall be deemed to be proceedings under the Code, and the Court shall have all the powers conferred by the Code on a Court of Sessions exercising original jurisdiction.

8. The trial shall be commenced by the reading of the information and thereafter the Court shall, subject to the provisions of this Part in trying the acused, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

9. If a charge is framed the accused shall be entitled to ask for an adjournment for ten days or any less period that he may specify and the Court shall comply with his request.

10. The Court shall be required to make a memorandum only of the substance of the evidence of each witness examined and subject to the adjournment provided for by section 9, shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.

11. The Court, if it is of opinion that such a course is necessary in the public interest or for the protection of a witness, may prohibit or restrict in such way as it may direct, the publication or disclosure of its proceedings or any part of its proceedings.

12. (1) No questions shall be put by the Court to the accused in the course of trial under this Part until the close of the case for the prosecution. Thereafter, and before the accused enters on his defence, the Court shall call upon him to state whether he intends to give evidence on oath or not, and shall at the same time inform him that if he does so, he will be liable to cross-examination. Unless the accused then states that he intends to give evidence on oath, the Court may at any time thereafter question the accused generally on the case in accordance with the provisions of section 352 of the Code.

(2) If, when so called upon, the accused states that he intends to give evidence on oath, the Court shall not at any subseqent stage put any question to him.

Provided that if the accused does not so give evidence, then after the witnesses for the defence have been examined, the Court may question the accused generally on the case in accordance with the provisions of the said section.

(3) If the accused gives evidence on oath, the following rules shall be observed in regard to his cross-examination, namely :—

(a) He may be asked any question in cross examination notwithstanding that it would tend to criminate him as to the offence charged.

(b) He shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of, or has been charged with, any offence other than that with which he is then charged, or has a bad character unless—

(i) proof that he has committed or been convicted of such other offence is admissible in evidence to show that he is guilty of the offence with which he is then charged, or

(ii) witnesses for the prosecution have been cross-examined with a view to establish his own good character, or he has given evidence of his character, or the nature or the conduct of the defence is such as to involve imputations on the character of the witnesses for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

13. If the accused or any one of the accused calls and examines any witness, the right of final reply shall lie with the prosecution, but in all other cases with the accused :

Provided that the examination of an accused as a witness shall not of itself confer the right of final reply on the prosecution.

14. In the event of any difference of opinion between the members of the Court the opinion of the majority shall prevail.

15. If in any trial under this Part it is proved that the accused has committed any offence, whether a scheduled offence or not, the Court may convict the accused of that offence although he was not charged with it.

16. The Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted, and no order of confirmation shall be necessary in the case of any sentence passed by it.

17. The judgment of the Court shall be final and conclusive and, notwithstanding the provisions of the Code or of any other law for the time being in force, or of any thing having the force of law, by whatsoever authority made or done, there shall be no appeal from

any order or sentence of the Court, and no High Court shall have authority to revise any such order to sentence to transfer any case from such Court, or to make any order under section 491 of the Code or have any jurisdiction of any kind in respect of any proceedings under this Part :

Provided that nothing in this section shall be deemed to affect the powers of the Governor-General-in Council or of the Local Government to make orders under section 401 or 402 of the Code in respect of any person sentenced by the Court.

18. (1) Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872 where—

(a) the statement of any person has been recorded by a Magistrate, and such statement has been read over and explained to the person making it, and has been signed by him, or

(b) the statement of any person has been recorded by the Court but such person has not been cross-examined, such statement may be admitted in evidence by the Court if the person making the same is dead or cannot be found or is incapable of giving evidence, and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused.

(2) Depositions recorded under section 512 of the Code may, in the circumstances specified in that section, be given in evidence at the trial under this Part of an accused.

19 The Chief Justice may from time to time make rules providing for—

(1) The appointment and powers of a President of the Court, and the procedure to be adopted in the event of any judge of the Court being prevented from attending throughout the trial of an accused.

(2) Any matters which appear to him necessary for carrying into effect or supplementing the provisions of this Part preliminary or ancillary to trials.

PART II.

20. If the Governor General-in-Council is satisfied that movements which are in his opinion likely to lead to the commission of offences against the State are being extensively promoted in the whole or any part of British India, he may by notification in the "Gazette of India" make a declaration to that effect and thereupon the provisions of this Part shall come into force in the area specified in the notification.

21. (1) Where in the opinion of the Local Government, there are reasonable grounds for believing that any person is or has been

actively concerned in such area in anv movement of the nature referred to in section 20 the Local Government may, by order in writing containing a declaration to that effect, give all or any of the following directions, namely : that such person—

(a) shall, within such period as may be specified in the order, execute a bond with or without sureties to be of good behaviour for such period not exceeding one year as may be so specified ;

(b) shall notify his residence and any change of residence to such authority as may be so specified ;

(c) shall remain or reside in any area in British India so specified, provided that, if the area so specified is outside the province the concurrence of the Local Governmet of that area to the making of the order shall first have been obtained ;

(d) shall abstain from any act so specified which, in the opinion of the Local Government, is calculated to disturb the public peace or is prejudical to the public safety ; and

(e) shall report himself to the police at such periods as may be so specified.

(2) Any order under clauses (b) to (c) may also be made to take effect upon default by the person concerned in complying with an order under dause (a)

22. An order made under section 21 shall be served on the person in respect of whom it is made in the manner provided in the Code for service of summons, and upon such servicd such person shall be deemed to have due notice thereof.

23. The Local Government and every officer of Government to whom a copy of any order made under section 21 may be directed, by or under the general or special authority of the Local Government, may use any and every means to enforce complicnce with the same.

24. An order made under section 21 shall only continue in force for a period of one month, unless it is extended by the Local Government as hereinafter provided in this Part.

25. (1) When the Local Government makes an order under section 21, such Government shall, as soon as may be, forward to the investigating authority to be constituted under this Act, a concise statement in writing setting forth plainly the grounds on which the Government considered it necessary that the order should be made and shall lay before the investigating authority all material facts and circumstances in its possession in support of its action.

(2) The investigating authority shall then hold an inquiry in camera for the purpose of ascertaining what, in its opinion, having

regard to the facts and circumstances adduced be the Government, appears against the person in respect of whom the order has been made. Such authority shall in every case allow the person in question a reasonable opportunity of appearing before it at some stage of its proceedings and shall, if he so appears, explain to him the nature of the charge made against him and shall hear any explanation he may have to offer and may make such further investigation (if any) as appears to such authority to be relevant and reasonable :

Provided that the investigating authority shall not disclose to the person whose case is before it any fact the communication of which might endanger the public safety or the safety of any individual :

Provided further that nothing in this sub-section shall be deemed to entitle the person in question to appear or to be represented before the investigating authority by pleader nor shall the Local Government be so entitled.

(3) Subject to the provisions of sub section (2) the inquiry shall be conducted in such manner as the investigating authority considers best suited to elicit the facts of the case ; and in making the inquiry such authority shall not be bound to observe the rules of the law of evidence.

(4) On the completion of the inquiry, the investigating authority shall report in writing to the Local Government the conclusions at which it has arrived.

(5) If the investigating authority has not completed the inquiry within the period for which the duration of the order is limited by section 24, such authority may recommend to the Local Government that the period of duration of the order shall be extended for such period as it may consider necessary, and on such a recommendation the Local Government may extend the duration of the order accordingly.

26. (1) On receipt of the report of the investigating authority, the Local Government may discharge the order made under section 21, or may pass any order which is authorised by the terms of that section :

Provided that—

(a) any order so passed shall recite the finding of the investigating authority ; and

(b) a copy of such order shall be furnished to the person in respect of whom it is made.

(2) No order made under subsection (1) shall continue in

force for more than one year from the date on which it was made, but the Local Government may, if it is satisfied that such a course is necessary in the interests of the public safety, on the expire of any such order again make any order in respect of the person to whom it related which is authorised by section 21.

(4) No order made under sub-section (1) shall continue in force for more than one year from the date on which it was made, but on its expiry may be renewed by the Local Government for a further period not exceeding one year :

Provided that any order so made or renewed may, at any time, be discharged, or may be altered by the substitution of any other order authorised by section 21, and in that case no further reference to the investigating authority shall be necessary.

27. If any person fails to comply with, or attempts to evade, any order (other than an order to furnish security) made under the provisions of section 21 or section 26, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

28. The provisions of section 514 of the Code shall apply to bonds executed under the provisions of this Part, with this modification that the powers conferred by that section on the Court shall be exerciscable by any District Magistrate or Chief Presidency Magistrate, on application made on behalf of the Local Government.

The Investigating Authority.

29. (1) The Local Government shall appoint one or more investigatlng authorities for the purposes of this Part.

(2) Every investigating authority shall be appointed by order in writing, and shall consist of three persons, of whom one shall be a person having held judicial office not inferior to that of a District and Sessions Judge, and one shall be a person not in the service of the Crown in India.

(3) The Local Government may by a like order appoint persons to fill casual vacancies occurring by reason of death, resignation of office or otherwise on any investigating authority, but in so doing shall observe the provisions of sub-section (2).

30 The Local Government shall by order in writing appoint such persons as it thinks fit to be Visiting Committees for the purposes of this Part and shall by rules prescribe the functions which these Committees shall exercise :

Provided that, in making such rules provisions shall be made for periodical visits to persons under the provisions of this Part.

Provided further that a person in respect of whom an order has

been made under section 21 or section 26 requiring him to abstain from any specified act, or to report himself to the police, shall not be deemed to be under restraint for the purposes of this section.

31. (1) The Local Government may make rules providing for the procedure to be followed regarding the notification of residence and reports to the police by persons in respect of whom orders have been made under section 21 or section 26.

(2) All rules made under sub-section (1) shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Part.

Part III

32. If the Governor- General in Council is satisfied that scheduled offences have been or are being committed in the whole or any part of British India to such an extent as to endanger the public safety he may by notification in the "Gazette of India," make a declaration to that effect, and thereupon the provisions of this Part shall come into force in the area specified in the notification.

33. (1) Where in the opinion of the Local Govenment, there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence, the Local Government may make in respect of such person any order authorised by section 21, and may further by order in writing direct—

(a) the arrest of any such person without warrant ;

(b) the confinement of any such person in such place and under such conditions and restrictions as it may specify ; and

(c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being, or is about to be, used by any such person for any purpose perjudicial to the public safety.

(2) The arrest of any person in pursuance of an order under clause (a) of sub-section (1) may be effected at any place where he may be found by any police officer or by any other officer of Government to whom the order may be directed.

(3) An order for confinement under clause (b) or for search under clause (c) of subsection I may be carried out by any officer of Government to whom the order may be directed, and such officer may use any and every means to enforce the same.

34. Any person making an arrest in pursuance of an order under clause (a) of section 33 (1) shall forthwith report the fact to the Local Government and, pending receipt of the orders of the Local Government, may by order in writing commit any person so arrested to such custody as the Local Government may by general or special order specify in this behalf :

Provided that no person shall be detained in such custody for a period exceeding fifteen days.

35. An order for the search of any place issued under the search provisions of clause (c) of section 33 (1) shall be deemed to be a warrant issued by the District Magistrate having jurisdiction in the place specified therein, and shall be sufficient authority for the seizure of anything found in such place which the person executing the order has reason to believe is being used or is likely to be used for any purpose prejudicial to the public safety, and the provisions of the Code so far as they can be made applicable shall apply to searches made under the authority of any such order and to the disposal of any property seized in any such search.

36. Where an order (other than an order for arrest of search) has been made under section 33, the provisions of section 22 to 26 shall apply in the same way as if the order were an order made under section 21, save that on receipt of the report of the investigating authority, the Local Government may, subject to the conditions prescribed by section 26, make any order which is authorised by section 33, and sections 22 to 26 and 28 to 31 shall be deemed to be included in this Part

37. If any person fails to comply with, or attempts to evade any order made under section 33 or section 36 other than an order to furnish security, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Part IV.

38. (1) On the expiration of the Defence of India (Criminal Law Amendment) Act, 1915, every person in respect of whom an order under rule 3 of the Defence of India (Consolidation) Rules, 1915, was in force immediately before the expiration of that Act, and who has in the opinion of the Local Government been concerned in any scheduled offence, or who is on such expiration in confinement in accordance with the provisions of the Bengal State prisoners Regulation, 1918, shall be deemed to be a person resident in an area in which a notification under section 32 is in force and the provisions of Part III shall apply to every such person accordingly, save that no reference to the investigating authority shall be necessary.

(2) On the expiration of the Ingress into India Ordinance, 1914, as continued in force by the Emergency Legislation Continuance Act, 1915, any person in respect of whom an order was in force immediately before such expiration under section 2 of the Ordinance read with clause (b) or clause (c) of sub-section (2) of section 3 of the Foreigners Ordinance, 1914, shall be deemed to be a person resident in an area in which a notification under section 20

is in force and the provisions of Part II shall apply to every such person accordingly, save that no reference to the investigating authority shall be necessary.

PART V.

39 When a notification issued under section 3 or section 20 or section 32 is cancelled, such cancellation shall not affect any trial, investigation or order commenced or made under this Act, and such trial, investigation or order may be continued or enforced, and on the completion of any such investigation, any order which might otherwise have been made or may be made and enforced, as if such notification had not been cancelled.

40 (1) An order made under Part II or Part III directing a person to remain or reside in any area in British India outside the area in which such Part is in force shall be as valid as and enforceable in like manner as if such Part were in force throughout British India.

Provided that, if the arrest is made outside the province of the Local Government which made the order, the report required by section 34 shall be made to that Local Govrnment and the period of detention limited by proviso to that section shall be extended to thirty days.

41. No order under this Act shall be called in question in any Court, and no suit or prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

42. All powers given by this Act shall be in addition to, and not in derogation of, any other powers conferred by or under any enactment, and all such powers may be exercised in the same manner and by the same authority as if this Act had not been passed.

THE SCHEDULE.

(See section 2.)

(1) Any offence under Chapter VI and section 131 and 132 of the Indian Penal Code :

(2) Any of the following offences, if, in the opinion of Government, such offence is connected with any movement endangering the safety of the State, namely :—

(a) any offence under sections 148, 153A, 302, 304, 307, 308, 236, 327 329 332 333, 385 386 387 392 393 394 395 396 397 398 399 400, 401 402 431 435 436 437 438 440, 454 455 457 458 459 460, and 506 of the Indian Penal Code ;

(b) any offence under the Explosive Sub-sections Act, 1908 ;

(c) any offence under section 20 of the Indian Arms Act 1878

(3) Any attempt of conspiracy to commit or any abetment of any of the above offences.

The Rowlatt Bill.

(Criminal Law Emergency Bill)

Debate in the Imperial Legislative Council.

Delhi—6th February 1919.

On the Motion to Refer the Bill to Select Committee.

The Hon'ble Sir William Vincent—" My Lord, my task in explaining the reasons for introducing this Bill has been considerably lightened by the discussion on the Resolution brought by the Hon'ble Mr. Khaparde last Session and I will endeavour to avoid repeating to-day what I then said. At the same time it will be my duty to place before the Council salient facts connected with this measure.

"As the Council are aware for some time before the war the Government of India were faced with the difficulty of dealing with a number of revolutionary conspiracies of which there were several sub-divisons. The intention of these conspiracies was by dacoity, murder and other crimes of violence to promote a rising against the British Government and to render the administration of thiscountry impossible. Owing to lack of any effective measures for dealing with this conspiracy, the movement gained considerable strength, and either before the war or shortly after the inception of the war, the difficulty of the situation was complicated because it received material assistance from the King's enemies. It attained indeed such serious proportions that it was really subversive of all good government in parts of this country.

"It was impossible to cope with this movement under the normal law, and if Hon'ble Members will read the Report of the Rowlatt Committee, upon which the present legislation is based, they will find confirmation of this not only in the findings of the authors of the Report, but also in the figures which they cite. It will be seen that from 1909 up to the date of the Report there were no less than 311 offences and attempts at offences connected with this revolutionary movement, in which 1,038 persons were known to be implicated. Out of that number, 64 only were convicted. In 1915, the Defence of India Act was passed, mainly in connection with certain violent outbreaks of crime in the Punjab. It was not however, used to

any great extent in Bengal though it may have been used to a small extent there. The result was that the revolutionary movement gained further strength, and in 1915 and 1916 there were 64 outrages including 14 murders, 8 of the murdered people being policemen.

The Act was then enforced. I think that the specific reason for enforcing it was particularly the murder of Deputy Superintendent Basanta Chatterji. I am not positive on the point as I speak from memory. The result was that the outrages were at once reduced and from January 1917 to February 1918, I believe the total number was 10. I think I am right in saying also that during the last quarter of 1918 there were no revolutionary outrages at all. The obvious conclusion from this is that the measures taken by the Bengal Government (I am citing the Bengal Government because the movement was particularly prevalent there and illustrates the position) have been effective. The Council will see indeed that the Bengal Government has been singularly successful in dealing in this way with revolutionary crime; the success of these efforts may also further be gauged from letters which revolutionaries have themselves written. Here is one :—

"Armed rising was imminent in other provinces. We could not lag behind. Government got the scent and was on the alert. Some of our best men were lost. Unfortunately at last we had to drop the idea of an immediate rising. Those local organisations are still intact and can be developed if required.

"In another letter which I have here, one of these revolutionaries says :—

'The condition here beggars all description. Trusted friends can no longer be trusted with secrets. No one wants to see us. The guardians hate us more than the enemies. (I am not surprised at that.) The students are anxious to avoid us. Those who were eager to talk to us now avoid us.

"I cite these letters and figures to show that the movement was effectively scotched by the Government under the powers conferred on it by the Defence of India Act I am glad also to say that the Bengal Government have at once taken advantage of the situation to release a very large number of men whom they had under restriction. A recent report of a debate in the Bengal Council indicates that out of 1,062 detenues 677 have already been released on guarantee. Of the rest, 385 are subject to restrictions of domicile only, 125 being domiciled in their own homes.

Confession of failure of Govt.

"Well, my Lord, during the progress of these operations, the Rowlatt Report, as it is commonly called, was published. In it certain recommendations were made for legislation to enable the Government of India effectively to cope with the disorder. The position as it appeared to the Government of India was this. We

had been unable effectively to cope with this movement under the normal law. We had been foiled in all our efforts. We then took restrictive measures, and we have been, or really the Local Government has been, singularly successful in dealing with it. I think if you read the Report the vital propositions are that under pre-war conditions the machinery of law and order was unfitted to cope with lawlessness of a particular type; that the ending of the war with its emergency legislation really saved the peace of India by providing machinery which could deal with this lawlessness; and that it is unsafe for us now to revert to the previous condition of affairs, in which these anarchical forces were allowed unrestricted license to prosecute their designs It is on the basis of this Report that we have undertaken this legislation. But before I explain exactly what the details of the Bill are, I think I ought to make one point quite clear, and that is, that this Bill is in no sense aimed at political movements properly so called. It is difinitely and distinctly intended and framed to cope with seditious crime, and it differs very materially also in its scope from the Defence of India Act. It is not, if I may say so, nearly as wide as that Act; and, so far as I am able to interpret it, it cannot be used against any activities other than seditious activities, even though they may endanger or tend to endanger the public safety I think it is necessary to emphasise this fact, because there seems to be in some quarters a misapprehension on the point.

Provisions of the Bill.

"The Bill itself is divided into five parts. The first part provides for the speedy trial of offences. It can only be used or brought into operation when the Governor General in Council is satisfied that scheduled offences are prevalent in the whole or any part of British India, and that it is expedient to provide for their speedy trial. Put very shortly, the part enables such offences to be tried by a strong Court consisting of three High Court Judges expeditiously without commitment and with no right of appeal. The first part also makes provision for trials being held in case of need in the locality or near the locality where the offence was committed, and also for trials *in camera*. Another point of importance in this part of the Bill is contained in clause 17, which allows the statements of persons not examined as witnesses to be used in evidence in certain circumstances We know that witnesses have, after their statements have been recorded, been murdered and we seek to remove at least the temptation to murder these witnesses and to preserve their testimony. Another point of great importance in this part of the Bill is that we now propose to allow accused persons to give evidence on their own behalf. They are not forced to do so. They may do so or not as they like, so that those who are innocent

may have full opportunity for clearing themselves. This last provision of the Bill is in accordance, I believe, exactly with the law which prevails in England.

"Part II of the Bill deals with preventive measures and with Part III is probably the part which will attract more attention. It can only be brought into operation if the Governor General in Council is satisfied that movements which are in his opinion likely to lead to the commission of offences against the State are being extensively promoted. Now if the Members of this Council will look at the Report itself, they will see that it is admitted that punitive measures alone can be of little effect in the repression of this sedition; and it is for that reason that they have recommended these preventive measures. The powers of the local Government where this part is brought into operation can be exercised only in respect of persons reasonably believed to be or to have been actively concerned in such area in any movement of the nature referred to in section 20, that is, a movement likely to lead to the commission of offences against the State. In such cases the Local Government may either order the person so concerned to furnish security or to notify his residence, or to reside in a particular area or to abstain from any act specified or finally to report himself to the police. In order to ensure that the powers of Government are not exercised without reason, the Bill provides for a safeguard in the constitution of an investigating authority which is to examine the material upon which orders against any person are framed. This investigating authority is to include one judicial officer and one non-official Indian. Further, in order that the interests of any person subjected to an order may be adequately protected, the Bill provides for the constitution of Visiting Committees to see to the welfare of such persons.

"Part III is more drastic. It can, however, only come into operation when the Governor General in Council is satisfied that scheduled offences have been or are being committed to such an extent as to endanger the public safety. In such circumstances, the Local Government, where there is reasonable ground for believing that a person, has been concerned in a scheduled offence, may direct the arrest of such person, his confinement in such place and under such conditions as may be prescribed. There are again the same safeguards as under Part II for an investigating authority and for a Visiting Committee. The period of orders under Parts II and III, I ought to have explained, is limited to one year in the first instance and to three years in all.

"Part IV applies the provisions of Part III automatically to persons known to have been concerned in revolutionary crime at present and who are under restriction under the Defence of India Act by reason of that connection-

"I do not think that at present there is anything in Part V to which I need draw attention It is mainly ancillary and is a matter in great measure, I think, for Select Committee. But if there is any point on which Hon'ble Members seek for information I will do my best to furnish it.

Why Govt. introduces the Bill

"Well, my Lord, I have now explained the provisions of this Bill, and it remains for me to say that the Government have not undertaken this legislation lightly or without anxious consideration. We have no desire ro restrict the liberty of persons further than a a compelling sense of duty forces us to do. At the same time we are responsible for the public peace in this country, and it is our duty to take such measures as may be necessary to secure that. No other remedy has been suggested in regard to this form of crimes as yet for attaining that object. If, however, any effective remedy is proposed the Government of India will be only too glad to consider it. There seems, however, to me to be some misunderstanding as to the nature of the disruptive forces of this anarchism. There are those apparently who look upon these men as innocent patriots, guilty of nothing save an excess of possibly mistaken zeal. My Lord, I ask the Council to get rid of this delusion These men are not patriots; they are really enemies of civilisation, they are enemies of progress and enemies of any form of organised government, whether European or Indian. It may be suggested, as it has been suggested before, that all their activities will be reduced by the introduction of the Reforms Scheme. My Lord, I say that these men are as much opposed to the Reform Scheme as to anything else. During Mr. Montagu's visit last year, I myself saw a circular which was addressed to a prominent citizen of Calcutta where it was openly stated that these men were not concerned with Mr. Montagu's coming or going, and that their object was first and last to spread terror and make the Government impossible. My Lord, I think if these facts were more fully realised we should hear less of that veiled sympathy with desperate men which really encourages them to further efforts and hinders the work of many who have the progress of this country at heart; and I suggest that it is the duty of all sober-minded men to combat this dangerous confusion of crime with patriotism, remembering what the effect of any such encouragement is. The Bill which I now seek to introduce is not aimed at patriots; it is aimed at criminals; it is not aimed at the suppression of politics at all; it is aimed rather at the purification of politics. What we seek to do is to prevent anarchy and disorder, and I think that many here will realise the importance at this juncture of combating these forces of disorder so rampant in many parts of the world when they consider the

effect of anarchy both in Russia and in other countries. My Lord, if ever there was a time when it was necessary to check revolutionary and anarchical tendencies, I think it may be safely said that it is the present.

"My Lord, at the same time, if I may say so, I realise very acutely the difficulties in which Hon'ble Members in this Council are placed. I realise their reluctance to accept a repressive law aimed at the suppression of a revolutionary movement. I realise their regret that any such measures should be necessary and their constitutional dislike of any legislation which interferes with the liberty of the subject. Government is exactly in a similar position. We also recognize the constitutional objections to these interferences with liberty, but we realise the danger which has to be combated, and for that reason we are forced, though with the greatest reluctance and only after anxious consideration, to introduce this present Bill. We ask the Members of this Council to face the facts in this matter courageously and honestly.

"If the findings of the Rowlatt Committee are accepted, and I submit that they must be accepted by every reasonable man, there is no getting out of that, that is to say the facts apart from the recommendations, then is it not essential that Government should be vested with some reasonable machinery to deal with this evil? And is it not the duty of the Members of this Council to assist Government in this matter? I ask the Council very earnestly to realise their own responsibility in this matter. There are many here who claim responsible government for the country, some sooner some latter; are they willing to accept the responsibility which responsible government inevitably connotes; are they willing to face the hostile criticism which must frequently be expected when action is taken in the public interest? My Lord, there are many who are watching the conduct of this Council on this occasion with great interest; it will be regarded by many as a test of capacity—whether the Members of the Council have the courage to do what is right in assisting the Government in its first duty, the maintenance of the public tranquility. Will the Members be found wanting, and give a right to anyone to say that their attitude on this question indicates their unfitness for responsible government? I earnestly hope that no such occasion and no such material will be furnished to those who are opposed to political progress in this country.

"My Lord, with these words I commend the Bill to the Council. The details, if the motion is carried, will be considered in Select Committee, and the Government is perfectly open to consider such modifications as will not render the machinery ineffective for dealing with the evil which they seek to combat.

"I now introduce the Bill and move that it be referred to a

Select Committee consisting of the Hon'ble Sir George Lowndes, the Hon'ble Pandit M. M. Malaviya, the Hon'ble Mr. Shafi, the Hon'ble Mr. Muddiman, the Hon'ble Mr. Sastri, the Hon'ble Nawab Saiyad Nawab Ali Chaudhuri, the Hon'ble Mr. Kincaid, the Hon'ble Mr. Khaparde, the Hon'ble Mr. Banerjea, the Hon'ble Mr. Fagan, the Hon'ble Mr. Patel, the Honble Sir Verney Lovett, the Hon'ble Sir James DuBoulay, the Hon'ble Mr. Emerson and myself, with instructions to report on or before the 6th March, 1919."

The Hon'ble Mr. V. J. Patel :—"Your Excellency, I beg to move,

'That the consideration of this Bill be deferred till six months have elapsed after the expiry of the term of office of this Legislative Council."

"In moving this amendment, I must say at the outset that no sensible Indian could be charged with having any the slightest sympathy with anarchists or anarchism. In every country, my Lord, revolutionary crime is really the outcome of what I may call political and administrative stagnation; if the political advancement of a country is really very slow and does not keep pace with the times, this sort of crime is bound to raise its head and disturb the peace of the country. What is then the remedy? The remedy, I submit does not lie in repressive measures, but I am strongly of opinion that the remedy lies in the removal of the standing grievances which bring revolutionary crime into existence. We are all very glad that the Reforms are coming The very publication of them has a good deal to do with the creation of a smooth atmosphere to some extent, and I am absolutely certain, my Lord, that when these reforms actually do come, revolutionary crime will almost disappear. The amendment which I have proposed before this Council is that the consideration of this Bill should be postponed for some time. At present, as I have already pointed out, circumstances have entirely changed; even the Rowlatt Committee which made the Report did not contemplate that their recommendations should be put into effect in all and under any circumstances. As a matter of fact, in their recommendations regarding legislation to deal with the difficulties that might arise in dealing with the conspiracies, the Committee say:—

'This as expressed appears to us to be applicable to the state of circumstances under which the difficulties referred to are encountered. These difficulties have, however, been circumvented for the time being by special temporary legislation and they have not been in operation at the time of our inquiry. When this legislation lapses circumstances may have altered and the position may be better or worse. We do not think it is for us to speculate nicely on these matters. We must of course keep in view that the present war will have come to an end, but we cannot say with what result or with what ulterior consequential effects or possibilities of consequential effects upon the situation.'

So the Rowlatt Committee itself did not contemplate that their

recommendations should be put into effect under any circumstances. As a matter of fact, the circumstances have altered. Revolutionary crime had ceased to exist at the time when they made their report, and since then cessation has continued. Then, again, after the Rowlatt Report, the Reforms Report has been published, the functions and the Franchise Committees have met in India ; they will shortly, as your Excellency pointed out in your opening speech, submit their Report to Parliament, and a Bill of Reforms will also be passed into law. That being so, I personally think that the passage of this measure at this juncture will materially affect the reception of the reforms in India.

"My Lord, I cannot disguise the fact that the whole country from one ond to the other is entirely opposed to this measure, and the passage of this Bill will stir up, in fact the introduction of it has already stirred up, a termendous and unprecedented agitation in the country at the time when great changes are in sight. Surely Government intends that the reforms should be given a fair trial, and I am afraid that the intention of Government will not be fulfilled if at this juncture this measure is passed. I must say that I am not at all suprised that the Government have thought it proper to introduce this measure at this juncture. It is one of those blunders which a Government not responsibile to the people is likely to commit in moments of excitement. What I am, however, surprised at really is that a Bill of this kind should have been brought forward at a time when people really expected the introduction and discussion in this Council of measures which would bring them more contentment, measures which really would conduce to the greater well-being of the people in matters industrial. At a time like this when the war has ended triumphantly for us, at a time when the Peace Conference is sitting to devise measures for the peace of the world, at a time when we are within sight of great constitutional reforms in India, at a time when one of the Indian is made a Member of the British Cabinet, at such a time instead of bringing forward measures which would really conduce to the well-being of Indians, a measure of this character should have been brought forward.

"I may be asked why I want the postponement of the consideration of this measure for the period named in the amendment. My idea is that a measure of this kind should be discussed, if at all, by the Council which would come into existence under the Reforms Scheme. I do not mean to say that this Council is in any way incompetent to deal with this question or will not do justice to it, but I do maintain that so far as this Council is concerned, its very existence is entirely at the mercy of the Executive. You can extend its life or, if you like, you can terminate it. As your Excellency

said in your opening speech, by an executive order without even consulting this Council, our existence has been recently extended till the 20th of July, 1920. So in this country the Executive is all powerful, and Council is so impotent even as regards the question of its existence. In these circumstances, and particularly if the reforms are to be given a fair trial and they are to be well received in this country, I think it is absolutely necessary, particularly when crime is at a standstill, that Government should not press this motion of reference to a Select Committee at this stage, but wait till the new Councils come into existence. As I said, I do not wish to go into the merits of the Bill. It would be sufficient for my purposes to say that we are mightily afraid of it, and we think that all our constitutional agitation for any reforms whatsover will die if these Bills are passed into law.

The Hon'ble Mr. Surendra Nath Banerjea :—"My Lord, I have given notice of an amendment on somewhat similar lines to those of my friend's amendment, and with your Lordship's permission, I may be allowed to make my observations at this stage of the discussion. My Lord, I confess to a sense of regret and disappointment that a Bill of this kind should have been introduced at this moment. I complain of its inopportuneness ; I complain of the principles which underlie some of its provisions, and, my Lord, in saying this, I do not express my own personal views, but the considered opinions of those of my friends with whom I am accustomed to act in public life. My Lord, it is no use disguising the fact that the Bill has created widespread anxiety, and even alarm, in the public mind of India, and I must say there is abundant justification for this feeling. It is feared that if this Bill be passed, it will cripple our political activities and bring about the stagnation of our public life. My Hon'ble friend has read out some of the provisions of the Bill and as I was listening to them, it struck me that they contained matter which constitutes a peril to the sacred rights of personal liberty which Englishmen value so much ; which I am confident this Council cherish dearly ; which you, our masters in the great art of constitutional government, have taught the people of India to prize. My Lord, one of the provisions—I think it is section 21—which my friend read out, says that in a notified area the Local Government may declare, after an inquiry, executive in its character and complexion, that a person should abstain from any act. If this provision means anything it means that after this executive inquiry, a journalist may be prohibited from following his avocation, that a public man may not be allowed to address public meetings. My Lord, I consider this as a grave menace to public liberty, a serious encroachment upon the rights which have been guaranteed to us and which we prize. If a right of this kind were taken away by a duly constituted court of law, no one would have the slightest

objection, but to place such dangerous, illimitable power in the hands of executive authority, deliberating in secret, discussing in secret, deciding in secret, seems to be an infraction of personal rights which I almost shudder to contemplate... You have, my Lord, in your armoury a weapon, offensive and defensive, which is amply sufficient for all purposes. The Defence of India Act is there, and it is now in force and will be in force until six months after the conclusion of peace. The Peace Conference has just started its sittings. The peace negotiations are going on from day to day. I take it my Lord, that on a moderate computation, these negotiations must last at least for three or four months. That brings us down to the month of June.

"The Defence of India Act will be operative six months after the conclusion of peace. That will take us down to the end of the year. Therefore, at least up to the 31st of December, 1919, no such law as the one that you are now proposing to enact is needed. Then, my Lord, there is the power of ordinances which you have used so freely and so frequently and to such good purpose. You can revive the Defence of India Act by an Ordinance which will continue it till June, 1920. Therefore, my Lord, having regard to the powers with which you are armed, and which can be easily continued, it seems to me that no case has been made out for enacting a law of this kind, at any rate at this stage.

"Nor is this all. You have got in your armoury Regulation III of 1818. It is a part of the permanent law of the land, and you can set it in motion at any time you like. As a matter of fact, I think my Hon'ble friend the Home Member will bear me out when I say that the most dangerous characters have all been interned under Regulation III of 1818.

"Therefore, my Lord, I submit with all deference but with the utmost emphasis that no case has been made out for the enactment of this law at this stage. On the contrary, it seems to me that there are very weighty reasons why you should not proceed with this legislation By the time that the Defence of India Act expires —by the efflux of time, I will take it on the 31st December, 1919, or the 30th of June, 1920—by that time the Reform proposals will have been introduced in Parliament, and I am sure, I feel confident, that they will be embodied in the law of the land. And, my Lord, let us contemplate the situation as it will then be developed. A new atmosphere will have been created surcharged with the spirit of mutual esteem, of mutual confidence, of mutual co-operation between the rulers and the ruled. A new order of things will have been inaugurated, an order of things, I take it, more favourable than what now prevails, for the consideration of a contentious measure like this. I ask, therefore, is it necessary, is it wise, to go on with

this measure? My Lord, furthermore, if there is one truth which should be burnt in upon the souls of the rulers of men it is this, that no measure, be it administrative or legal, can be successfully worked except with the willing concurrence and co-operation of the people. If a measure alienates popular sympathies, sets up the people in arms against you, gives rise to the fiercest agitation, it is doomed, foredoomed to failure. I very much fear that is the case with the present Bill. The agitation has already commenced; it is growing, and it will grow, day by day. My Lord, I cannot help thinking that by passing these two Bills, or this one Bill, you will be placing a very formidable weapon in the hands of the reactionaries in England who desire to wreck the reforms. This measure will foster excitement, uneasiness and public discontent, and these are the impulses upon which the revolutionary instinct feeds and from which it derives its sustaining and vitalising influence. The revolutionary will say in his secret leaflets which he circulates with strenuous persistency; 'All this talk about the Reform proposals is moonshine. It means nothing; it implies nothing. Here you have got this drastic Act symptomatic of the spirit of the administration.' All this may be grotesque, wild exaggeration, but, my Lord, in a state of popular excitement it is bound to appeal to the popular sentiment. And then what will Lord Sydhenham and his followers say. Referring to this Act they will say 'Here the Government of India by the enactment of this law tells you that India is seething with discontent and sedition, and that it is necessary to pass a law of this kind for the purpose of grappling with the situation. Tranquillise India first, and then it will be time enough to talk of Reform proposals Look at Ireland, What has happened there? Irish discontent, the disturbed condition of Ireland, have indefinitely postponed the prospects of Home Rule. 'Apply the same principle', Lord Sydenham and his followers will say, 'to India.' What then, my Lord, becomes of our Reform proposals? Your Excellency's Government and the authorities at home have staked their credit and reputation upon the passage of the Reforms Bill through Parliament without any attenuation, without any whittling down. The passage of that Bill will be seriously handicapped by the Bill which the Hon'ble the Home Member desires to enact.

'My Lord, I need not detain the Council any longer. I appeal to your Excellency's Government to reconsider the whole situation and to drop the Bill, or at any rate to postpone it until the Reform proposals have become the law of the land. My Lord, the agitation against the bill has already commenced. We are receiving telegrams every hour. Last night, I was awakened at midnight by a peon with a telegram purporting to be the proceedings of a public meeting protesting against the Bill. I am sure my friends

over here are being troubled in the same away every hour of their lives. The agitation has commenced, it will grow. My Lord, we want—certainly an old man like myself wants—peace, freedom from agitation, from conflict and controversy. I therefore appeal to your Excellency's Government with all the emphasis that I can command to save us from being precipitated into the vortex of an agitation which is bound to excite the fiercest passions, which will be the source of embarrassment to your Excellency's Government and will dissipate that atmosphere of peacefulness, of tranquillity, of mutual trust and mutual confidence, which the Reform proposals have helped to create, and which we of the moderate party have tried to deepen, to extend and to promote. I do trust, therefore that my appeal will evoke a sympathetic response in the heart of my Hon'ble friend the Home Member.

The Council adjourned for Lunch till 2 15 P.M.

The Hon'ble Mr. Kamini Kumar Chanda :—"May I inquire the dates of the letters which the Hon'ble the Home Member referred to in his speech ?"

The Honb'le Sir William Vincent :—"I am afraid I cannot give the Honb'le Member the information he requires."

The Honb'le Mr. Kamini Kumar Chanda entered a most emphatic protest against this Bill which admittedly aims at curtailing the liberty of the subject—the right of speech and action, and some of the provisions have certainly no precedent in the jurisprudence of any other civilised country. He then referred to the numerous public meetings held in protest all over the country and drew the attention of the Council to the protest made by Raja Kishore Goswami of Bengal, the first Indian member of the Bengal Executive Council, and continued :—

"This is what is at the back of our minds when we oppose the measure. I will not waste the time of the Council by quoting a large number of cases, but I will quote one instance from the Report of the Sedition Committee, on the findings of which the Bill is based—the attempt on the life of Basanta Chaterji, Deputy Superintendent of Police. The case is known as the Musulmanpara bomb case and is referred to in paragraph 66.

The report says :—

'From information now available it appears to be clear that this was the work of the Dacca Samity and that the bombs had been procured from Chandernagore.'

"But what was the judgment of the High Court ? A young lad, a student of the Presidency College, was sent up for trial before the special tribunal presided over by the Chief Justice and Justice Sir Asutosh Mukerji. Lord Sinha (then Sir Satyendra

Sinha) who was Advocate-General conducted the case for the prosecution. He was impressed with the innocence of the lad, and he himself called the respected Head of Oxford Mission to prove an *alibi* for this young man who was acquitted in spite of the attempts of the Criminal Investigation Department to swear away his life. The judgment of the High Court stated that "the attempt of the police to connect the innocent lad with a dastardly crime had failed. The Chief Justice and Mr. Justice Mukerji made strong comments, and in fact suggested an inquiry into the police evidence"; but up to now we have not heard that anything has been done. As I said, my Lord, I could quote other cases from this Report, but it would be tiring the patience of this Council. I shall therefore only refer to one more—the Sindhubala case, in which two innocent respectable young ladies were subjected to all sorts of atrocities. They were kept in confinement for days and days. Has any notice been taken of the persons who were responsible for that? My Lord, if it is an offence and a crime to have sympathy with people like the Sindhubalas and the Musulmanpara case's accused, I must plead guilty. But that is what is really at the back of our minds when we oppose the Bill. My Lord, this Bill is admittedly based on the recommendations of the Sedition Committee.

Value of the Rowlatt recommendations

"We shall always speak of their findings and their recommendations with the utmost respect. But, my Lord, I cannot help saying that as I read some of their findings and recommendations I was reminded of an anecdote I read somewhere, probably in Serjeant Ballantyne's Reminiscences. A man was tried on a charge of stealing a horse; the case against him was very strong and everybody expected that he would be convicted. But his Counsel, a Serjeant-at-Law or Queens Counsel, I forget which, made a strong appeal and the Jury returned a verdict of not guilty. Of course he had to be acquitted, because fortunately or unfortunately—I do not know which—our Criminal Procedure Code is not in force in England. The Judge after acquitting him addressed him "Now that you are acquitted, there is no fear of your being put on your trial again. Will you tell me whether you did not steal the horse?" The man replied 'Well my Lord, I always thought that I did it until I heard the address of my Counsel, and now I begin to think that I did not.' This is my feeling, my Lord, after reading some of the findings and recommendations of this Committee. I shall simply mention this fact that the circumstance that their decision is based upon expert evidence which was not sworn and which was not sifted by cross-examination is bound to detract somewhat from the value of their recommendations. Apart

from that, it appears from the report (paragraph 176) 'that proposals for legislation for the period after the war were, however, drafted and had been under consideration when it was decided to appoint our Committee.' I submit, my Lord, that this must have tinged to a large extent their decisions in this matter."

He then contented that there was no occasion, no reason to proceed with the legislation proposed and contested the statement of the Home member that the Anarchical movement was still in force. He drew the attention of the Council to the statements made in the press and in private by people not hitherto in sympathy with British rule that the new situation created by the war had made them strong supporters of the Government, and then continued—

"Now, my Lord, you are going t give us reforms and side by side with them, and in fact before them, you are going to give us this repressive law. Will that pave the ground for the reforms in this country? If this measure is passed it is bound to create considerable agitation. I read the other day that Mr. Asquith in his election campaign was questioned by a soldier in regard to Home Rule and this is what he said: 'The best way to get rid of the Sinn Fein is to grant self-government to Ireland. This will make short work of Sinn Feiners.' Lord Morley said with regard to the Irish Crimes Act 'if I know anything in this world it is the record and working of Irish Coercion Act since 1881 and the Irish Crimes Act was the most egregious failure in the whole history of exceptional legislation' page 328. What is there to show that what failed there will succeed in this country? Given the same cause the same result will follow whether it is Ireland or Italy or Russia or India. My Lord, our humble submission is that before you pass this measure let us see what will be the effect of the reforms in India. Where is the danger? In the first place there is the Indian Defence force Act and that will be in force for some time yet Peace has not yet been signed and even after it is, the law will be in force for six months more. Apart from that you have got the 'rusty sword of 1818,' namely the Bengal Regulation III of 1818. If in spite of these measures you find there is an increase of crime which cannot be dealt with by the ordinary law, surely your Lordship can pass an emergency measure, an Ordinance or even an Act in a single sitting as was passed in the time of Lord Lytton and in the case of the Press Act.

"Then I doubt if the Council has got the power to pass this law. In paragraph 200 of the Rowlatt Committee's Report this is what is said: 'In making suggestion for legislation we have not considered at all whether it could be argued that such legislation is in any respect beyond the competence of the Governor

General in Council. We have no authority to lay down the law on any such point, and any provisional assumption as the basis of our proposals would only cause embarassment. We have proceeded on the basis that any suggestions of ours which it may be decided to adopt will be given effect to by some legislature competent for the purpose'. Reading between the lines is there any doubt that the Committee was sceptical about the competency of the Council? It comes to this, my Lord, that the eminent judges were not satisfied that you have the power. Couple this with the findings of the Joint Parliamentary Committee presided over by Lord Loreborn and there is room for the submission that the matter ought to be considered further.

Hon. Mr. M. A. Jinnah said:—I shall place before the Council the grounds on which I am opposed to these Bills. My first ground is this, that it is against the fundamental principles of law and Justice, namely, that no man should lose his liberty or be deprived of his liberty without a judicial trial in accordance with the accepted rules of evidence and procedure. My second reason is, that this is a wrong remedy for the disease, namely, these revolutionary crimes, although I for one am prepared to accept as correct the findings of facts of the Rowlatt Committee that the crimes of a nature indicated have been committed. My third ground is that the powers which are going to be assumed by the executive, which means substitution of executive for judical, such powers are likely to be abused and in the past we have instances where such powers have been abused. My fourth ground is that there is no precedent or parallel that I know of in any other civilised country where you have laws of this character enacted. My fifth ground is that this is a most inopportune moment. At this moment I can tell you that high hopes have been raised among the people of this country because we are on the eve of great and momentous reforms being introduced. My sixth ground is that the proposed measures are of a permanent character and not temporary measures intended only to deal with an emergency of a temporary character. And the last ground why I oppose this measure is that, my Lord, I do not wish to state it by way of any threat or intimidation to Government, but I wish to state it because it is my duty to tell you that, if these measures are passed, you will create in this country from one end to the other a discontent and agitation, the like of which you have not witnessed, and it will have, believe me, a most disastrous effect upon the good relations that have existed between the Government and the people. ... ...

"Your justification for coming here and asking this council to give you sanction to pass them into law is this; We had these

revolutionary movements and it was difficult for us to cope with them at first, but as soon as the Defence of India Act was passed in 1915 (though the Government for the time being took those powers for the period of the war) you were able to utilise those powers for the purpose of dealing with revolutionary conspiracies and with more success. That being so, the Government is now so enamoured with these powers that it boldly asks the legislature to enact measures of this character permanently, which to my mind is subversive of all principles of jurisprudence. Now, my Lord, there is no doubt, I think it is common sense, that by these powers you can more effectively deal with conspiracies. Nobody will dispute that; you will ask me, why do you object to it.; why don't you give us these powers? My answer is this, my Lord, that by these powers of an executive character you may be able to get hold of more real offenders but at the risk and the cost of many other innocent men who will be persecuted and who will have no chance, no opportunity, of a proper trial. You say these powers can be effective, and so they can be. But what guarantee is there for the innocent? Then you will ask, don't you trust the executive? My answer is that I certainly cannot trust the executive, because I am a firm believer,—I do not care how many Rowlatt Committees will decide and recommend,—I am a firm believer that no man's liberty should be taken away for a single minute without a proper judicial inquiry. Now that, to my mind, is the root of the whole question. And what is your answer to that? and I say, my Lord, remember you are responsible; remember, once you have passed this law in the Council, your Excellency's Government is responsible, because these laws will then be put into force; they will be put into force by Local Governments, they will be put into force by officials; they will be put into force in various ways by the police; you are giving this power, and I want you, my Lord, to consider whether such a case has been made out as to enact these measures. I am now dealing only with the preventive measures. The Rowlatt Committee themselves admit it, and they also feel embarrassed; they also recognise the fact that it will involve the infringement of liberty of the subject. Take, for instance, your first clause, the important clause in the Bill, section 21, which reads thus:—

'Where, in the opinion of the Local Government, there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 20, the Local Government may, by order in writing containing a declaration to that effect, give all or any of the following directions, namely, that such person—

(a) shall within such period as may be specified in the order execute a bond.

(b) shall notify his residence and any change of residence

(c) shall remain or reside in any area in British India so specified.

(d) shall abstain from any act so specified which, in the opinion of of the Local Government, is calculated to disturb the public peace or is prejudical to the public safety ; and

(e) shall report himself to the police at such periods as may be so specified.'

'Where in the opinion of the Local Government there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence, the Local Government may make in respect of such person any order authorised by section 21, and may further by order in writing direct—

(a) the arrest of any such person without warrant ;

(b) the confinement of any such person in such place and under such conditions and restrictions as it may specify ; and

c) the search of any place specified in the order which, in the opinion of the Local Government, has been, is being, or is about to be used by any such person for any purpose prejudicial to the public safety.

What is 'Movement' ?

I do not know what is the meaning of the word 'movement,' the word might mean anything. Well now, who will give the information to the local Government that a person is concerned with a movement of the kind defined ? Who will furnish local Government with materials upon which the local Government will make its order ? I venture to say, my Lord, it will be some police officer. Who else can it be, except somebody in the Criminal Investigation Department, or the police ? It is the police who will furnish the local Government with information ; *ex-parte* information and upon that information, furnished by the police, the local Government will say, well here we have got this information, we will make the order', and the order is made and it is final. After the order is made, after the man's liberty is taken away, under the second and more drastic preventive measures which are enacted, you have an investigating authority. After the man is either in jail, or has been arrested and is detained somewhere, you have the investigating authority ! And My Lord, what is that investigating authority ? Here again I am fully alive to the fact that it is suggested that there will be one non-official member on that investigating authority. But what is that investigating authority ? It will have the same materials, though it may call for more material, but the inquiry will be anything but a judicial inquiry. The person who is either under arrest or has been detained will not be there. He may be called by the investigating authority, he may be questioned, but he may not be there. The whole inquiry will be *in camera*, most probably behind the back of the person accused and the investigating authority is then to make a report. I

ask you, my Lord, again what is the good of that report, is it worth anything? I venture to say that the Hon'ble the Law Member, for whose fairness I have the utmost respect, if he were there and if 20 statements were placed before him, and if the accused were not called before him, and he was to investigate behind the back of the accused, without the assistance of any advocate or barrister, I venture to say, my Lord, that even he, with his great experience of the Courts, is likely to be misled. How are you really going to come to any decision? You know that even in a court of law, where you have sometimes the ablest counsel on both sides, it is difficult to decide whether a person is really guilty or not, and we know that juries, men of common sense, men of business, have differed. We know that judges have differed We know that a Court sometimes convicts a man of murder, and you go to a court of appeal and on the same evidence the man is acquitted. This is a very serious matter when you are dealing with the liberty of the subject. How can you expect this investigating authority, sitting *in camera*, behind the back of the person accused, to come to any really useful conclusion? What happens then? This investigating authority will make its report and the Government is bound to accept that report. What is the good of it? The Government will say 'we have considered it.' Now this is the condition this is the most valuable safeguard, the great condition precedent which is made so much of. The same thing will apply in the more drastic preventive measures. Therefore, my Lord, it is no use shirking the issue, it is no use hedging round the whole of this question. It is quite clear and it is obvious that this measure is of a most serious character. It is dangerous. It imperils the liberty of the subject and fundamental rights of a citizen and, my Lord, standing here as I do, I say that no man who loves fair play, who loves justice and who believes in the freedom and the liberty of the people can possibly give his consent to measure of this character. You have got to make out a very very strong case indeed, and then alone you can come to us and then I can assure the Hon'ble the Home Member that I will tell him, 'yes, you have made out this case, I shall co-operate with you.' What is the case you have made out? Because there are some revolutionary conspiracies; because, as the Hon'ble Mr. Banerjea said, you have a small section, a few hundreds, or a few thousand if you like, who have taken to revolutionary methods, who have taken to anarchical methods, you come here and say that we are going to enact laws of this character, permanently placing them on the Statute-book, the result of which would be that no man's liberty will be safe in this country. I shall even go so far as to say this, my Lord, that there will be an end to political life and freedom in this country. No man will be safe. Supposing, my

Lord, in some province some offences are committed. The Government of India is appealed to and the Government of India says 'very well, some offences have been committed'—and mark you I have not dealt with the offences here, but the Schedule of Offences includes grievous hurt, rioting, and all sorts of other offences. If to-morrow, for some reason or another, there happen to be three or four riots in the Bombay Presidency, mind you, nothing to do with politics at all, the Government of India may be asked to apply this Act to Bombay and the Government of India might intervene and make it applicable to Bombay.....

The Hon'ble Sir William Vincent:—Is the Hon'ble Member quite correct in his citation from the Schedule? Will he read it? He has ommitted the sentence 'if, in the opinion of Government, such offence is connected with any movement endangering the safety of the State."

The Hon'ble Mr. M. A. Jinnah:—"I know that perfectly well, but how is this to be ascertained. I know that the draftsman has put it in this way that provided they are connected with any offence against the State, but I say supposing you have offences of this kind I will give you an instance. Supposing we have somebody who is dissatisfied with some individual official and happens to attack him and causes hurt.....

The Hon'ble Sir William Vincent:—"May I point out that section 323 is not in the Schedule at all; the offence of simple hurt is not included."

The Hon'ble Mr. M. A. Jinnah:—"I said 'grievous hurt.'."

The Hon'ble Sir George Lowndes:—"No, the Hon'ble Member said 'hurt'."

The Hon'ble Mr. M. A. Jinnah:—"I said 'grievous hurt' just now."

The Hon'ble Sir William Vincent:—"'Grievous hurt' is also not in the Schedule. Section 326 deals with grievous hurt caused by a deadly weapon."

The Hon'ble Mr. M. A. Jinnah:—"I always understood that grievous hurt is grievous hurt with any kind of weapon. Therefore, I say that you have got a Schedule of offences to which there is no limit. Of course I can go into the whole list and take up the time of the Council unnecessarily. But you will find you have got a regular list of offences. They are not offences really confined to offences against the State. Therefore, what do you find? You find that once you get this Act made applicable to any province, then in that province if there is a particular person who is not liked

or who is supposed to be undesirable, by some official, I say that person is not safe. If he happens to incur the displeasure of a few high officials in that province, I say that man is not safe, and he has got no remedy. I venture to say, my Lord that there is not a single non-official Member that is going to support these measures. There may be one or two exceptions, but, as far as I know, barring one or two exceptions, the rest of them are going to oppose these measures. Not only that. Although the non-official Members in this Council certainly represent a very important volume of public opinion, you have also got the public outside, and I venture to say that the whole of the country is opposed to these measures.

"Then you say of course 'we have got the official block; we have got the official majority; we are going to carry this' Well, of course you can carry it because you have got the official majority. But I ask you, my Lord, and I ask your Government, do you or do you not accept our assurance when we say that nobody condemns these crimes more strongly than we do; nobody is more ready and more anxious to stop them than we are; nobody is more anxious to co-operate with you than we are? Therefore will you not listen to us? Does our opinion count for anything or does it not? I know it counted when you wanted £45 million. Is it or is it not going to count to-day, and, if so, why not? That is the question I ask. My Lord, we have got this question to face. As the Hon'ble Mr. Banerjea has put it, this Act is not going to expire for six months after the peace is signed. You have got Regulation III in your hands. You have got the power of Ordinance; you can enact this very measure, if necessary. And if in the new Councils, when they are formed, if we find—and our conviction is this that there will be no occasion; we may be wrong, I am not going to be very emphatic on that point, we may be wrong, but we feel, and, my Lord, I feel convinced that this announcement of the 20th August by His Majesty's Government followed up by the visit of the Secretary of State for India and the fact that your Lordship and the Secretary of State for India went all over the country to ascertain the public opinion on the question of constitutional reforms and the publication of your Report which I for one had never any hesitation in recognising as an advance, and I have said so not in this Council but outside, had tremendous effect on the people. And whatever differences there may be between your Government and ourselves with regard to those proposals, if we eventually get those reforms in the substantial form that we expect—and on that point we mean, my Lord, to fight to the end, we will do all that lies in our power, we will do our best, we mean to go further than that Report—but, my Lord, after we have fought the fight, whatever may be the end of it, once these

reforms are introduced, I can assure you, my Lord, that you have got men in this country who will then say this: 'We have fought a constitutional battle, we have done all we could in our power, but we have not succeeded to the fullest, but it is a real and substantial advance now these reforms are introduced, let us make the best of them'. And I hope that the Civil Service, on the other hand, will act in the same way. They may fight now, they may resist us now, they may think that they are going to be endangered and they may think that even these proposals go too far: but once the fight is over, I hope that you and we will work in co-operation and do our best to see that those reforms are made a success. At that time, I can assure you, my Lord, and I can assure the Government, if we find that there still exists these revolutionary conspiracies, and if we find in co operation with your Government that measures of a drastic character are essential, I assure you that you will find men amongst my own countrymen who will stand side by side with you and will be ready to give their assent to laws however much they may dislike them. Even then I can assure you I shall be loath to give my consent, but I shall do so if it is necessary. Now, therefore, do you think that you will lose anything, do you think that anything serious is going to happen if you accede to this request of ours, namely, to postpone the introduction of the Bill? That is all that we ask. Do you think that you will gain more by carrying this measure by means of your official majority against the will of the people? I say it is against the will of the people throughout the country,—and mark my word, what I say is true and will be proved to be true—against the will of the people. Are you going to do that? And I say your only justification for that would be if you can say this to me: 'The danger is so imminent—after all, we are here as a foreign Government and we have got to protect ourselves and we have got to maintain peace and order in this country—it does not matter whether you like the method or not, we are absolutely driven to this desperation, that against the will of the entire people, against the responsible opinion in this country, we find we are in such great danger that unless we arm ourselves with these powers our Government is in peril.' Is that so? I venture to say No; it is not what is going to happen. You have got already more than ample powers with you, I assure you you have got, I would not care to go so far as to say the entire community—there may be a small section on whom you cannot count—but almost the entire community at your back; because, believe me, we do not wish and nobody wishes, that there should be anything but ordered progress in this country. What have you found? I cannot, my Lord, quote your Excellency's actual words in your speech to-day; but what has India shown during this War? The good sense of India, the

loyalty of India—not loyally in that stupid sense in which it is sometimes used, but free, sincere co-operation—have been acknowledged. Has India failed during these last few years? Then, my Lord, what is the danger, what is the necessity, that calls for pressing on with this Bill at this moment? My Lord, I do not wish to take up the time of the Council unnecessarily. I say, first of all, as I said before, the Bill is really opposed to the fundamental principles of British justice; secondly, I say it is not opportune; thirdly, I say it will create a most disastrous effect on the public mind.....

He then referred to the Home Member's statement that difference of opinion as to details will be settled in the Select Committee, and said that the difference is not so much as on details but on fundamental principles. He was opposed to the very principle of the Bill and so could not support the motion that the Bill be referred to select Committee. He ended by appealing to the Government to reconsider their position before proceeding with the Bill any further.

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, before I proceed to discuss the Bill, may I, under rule 13 of the Rules for the Conduct of Legislative Business, ask that any papers or returns relating to the Bill which is before the Council, any Minute which may have been recorded by your Excellency's Government, and any correspondence that may have passed between your Government and the Secretary of State, may be supplied to me? That rule says—

'Any Member may ask for any papers or returns connected with any Bill before the Council.'

I beg to ask for these papers."

His Excellency the President:—"There are no papers or returns in the custody of the Secretary to the Council."

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, my request is that if your Excellency's Government has minuted upon this Bill, and if any correspondence has passed between the Secretary of State and your Excellency's Government, copies of these may be supplied to me,"

His Excellency the President:—"Rule No. 13 says—

'The President shall determine, either at the time or at the meeting of the Council next following, whether the papers or returns asked for can be given.'

I will give the Hon'ble Member an answer to-morrow."

The Hon'ble Pandit Madan Mohan Malaviya:—Thank you. My Lord, at the conclusion of his speech in introducing this Bill to-day, the Hon'ble the Home Member reminded us, non-

official Members of the Council, of the great responsibility which rests upon us in dealing with this matter. He went further and he told us that we shall be judged as to our capacity for having a larger measure of responsibility by the attitude that we take up in relation to this Bill. My Lord, I entirely endorse that view, though I do not agree with the Home Member as to his object in making this remark. I hope that not only we non-official Members but that we all of us, official as well as non-official Members, will approach this question with a full sense of the responsibility which rests upon us in dealing with such an important matter.

The rules provide that ordinarily when a Bill is introduced, a motion is to be made in the first instance that the Bill may be published in the official Gazette or Gazettes as the Council may direct. In the present case action has been taken under the exceptional provision contained in rule 23, which says: 'The Governor General, if he sees fit, may order the publication of a Bill, together with the Statement of Objects and Reasons which accompanies it in such gazettes and languages as he thinks necessary, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and if the Bill be afterwards introduced, it shall not be necessary to publish it again' My Lord, I take it that this provision has been incorporated into the rules to meet cases other than the one which is now before us. The departure from the ordinary method prescribed has resulted in this; here is a measure of very great importance. If a motion was made for leave to introduce it in the ordinary way, it would have been followed by a motion that the Bill should be published in the gazettes and circulated for opinions. The Bill would have then been circulated in the country and among public bodies for opinion; the opinions of High Court Judges, of other Judges and Magistrates, of the various Local Governments and of public associations interested in the question would have been elicited. These opinions would have been circulated to Members of this council, considered by your Excellency's Government and possibly also by His Majesty's Government; and after all if this had been done there would have been a motion made in this Council that the Bill should be referred to a Select Committee. But what has actually been done here? The Bill was published in the Gazette, if I am not mistaken, on the 19th January or some date about that.....

The Hon'ble Mr. A. P. Muddiman :—"On the 18th January."

The Hon'ble Pandit Madan Mohan Malaviya :—"Thanks. Now, a fortnight after that the Bill is introduced here to-day under

the provisions of rule 23, without any motion for leave to introduce it.

"The second thing which I complain of is that, while rule 25 provides that 'after publication of a Bill in the Gazette of India, the Select Committee to which the Bill may have been referred shall make a report thereon. Such report shall be made not sooner than three months from the date of the first publication in the Gazette of India, unless the Council orders the report to be made sooner'; here is a proposal emanating not from an ordinary Member, but from the Home Member, who held judicial offices for many years, disregarding that very useful provision and proposing that the Select Committee to which it is proposed to refer this Bill should report on or before 6th March 1919. I submit, my Lord, the Home Member owed it to the Council and the public to explain what reasons of State existed which justified or led the Government to adopt a procedure which violates the ordinary rule which has been laid down for dealing with legislation. He has not done so; I hope he may yet do so. But I submit in the absence of any such explanation, the public have a right to complain. Your Lordship is aware, that these Bills have fallen like bolts from the blue upon the public. Your Lordship is aware, most of us are aware, how numerous are the meetings which have been held and are being held in different parts of the country to send up protest against the introduction of these Bills. Is it fair to the public to hurl such measures as these over their heads without the slightest attempt at justifying the procedure? .....

He then said that they all hated sedition and have always supported Government against revolutionary crime, as witness the wholehearted support of the Non-official Indian members of Council when the Defence of India Act.—a war measure—was passed.

He then traced the history of revolutionary crimes in each province separately and showed that there was no need for legislation of the kind proposed, quoting the very words of the Rowlatt Committee in support of his contention. He then took up the case of the Punjab and of Bengal and traced the causes under which the Revolutionary movement thrived, referred to the callous indifference of the Government in the past towards youngmen who could not find an opening, to the unjust Partition of Bengal, the Gadhr affair and their aftermaths, and lastly the Komagata Maru affair.

He said that the Montford report had in unquestionable terms recognised the loyalty of India and her sacrifices in the War and this bill coming at this time has been a great and deep seated disappointment, and continued :—

I ask that the Government should not lead people to think that all the great sacrifices which they have made during the war have

already begun to be forgotten. The Government should give no ground, no room for thinking that the magnificent effort of India during the war has already begun to be forgotten. The Government should show by their acts that they still do trust the people, and that what they say about the deep loyalty of the people is a reality which they believe in and not an unreal sentiment expressed to flatter the people. I fear that by taking up the attitude which the Government of India have taken up, they have already to a great extent destroyed—I regret to say it—the excellent results which had been produced by four years of joint effort during the war, four years of comradeship in the war, and all the sentiments of mutual trust and esteem which it engendered. But it is not too late yet to mend, it is not too late yet to rectify the mistake; and I appeal to your Excellency that the Government should, with that sense of responsibility which the Hon'ble the Home Member asked, and rightly asked, us non-official Members to display, I appeal with all respect and deference that the Government of India should reconsider the situation and as a very special measure withdraw the Bill. Now, my Lord, what would be the result if this recommendation is accepted? I know the Government of India, constituted as it is, does not easily go back upon any legislation which it has set its heart upon. We know that to our regret; but I submit that, if in view of the very special circumstances of the situation, in view of the very special circumstances which the war has brought about, if at this time the Government should unite with the non official Members in burying the Bill, no evil will result to anybody, and the Defence of India Act will continue in operation for some six months after the war. The ordinary legislation which stands in the Statute-book provides ample means for dealing with all classes of crime, and if six months after the war is over, if after measures have been introduced to remove the causes which have fed discontent, which have given rise to revolutionary and anarchical tendencies, the Government should still find that there are young men who are working in wrong paths, and the ordinary law is not enough to deal with them, then, my Lord, would be the time for the Government to consider what measures should be adopted—not a measure like the present one—but what other reasonable measures should be adopted.

It is proposed that the bill should extend to the whole of India; the Rowlatt Committee have clearly and distinctly stated that the revolutionary movement was limited to certain provinces and only for a certain period. It is generally subsiding. Another sentence in the Report 'all these plots have been directed towards one and the same objective, the overthrow by force of British rule in India; sometimes they have been isolated; sometimes they have been interconnected; sometimes they have been encouraged and supported by German influence.'

"But the Committee go on to say—'all have been successfully encountered with the support of Indian loyalty.' I ask you, my Lord, I ask whether in fairness, whether in justice to that loyalty, the Government should not say 'No' to the proposals of legislation before us, whether it should not still rely upon that loyalty to curb these evil tendencies and to eradicate it from the land. They go on to say: 'It is not surprising that in dealing with conspiracies so elusive and carefully contrived, Government has been compelled to resort to extraordinary legislation.' But that work has been done; that extraordinary legislation will still be available for six months after the war; let it have its course till then and be done with it. Let us hope and pray that the evil will be dead in the new state of things which will dawn.

"My Lord, in the presence of this report, I cannot understand how the Government could make up its mind to propose legislation of the retrograde and repressive character, subversive of the principles of justice for which England has always stood up, which are the glory of the English constitution, subversive of so many ideas of justice for the protection of the liberty of individuals? How could Government have made up its mind to introduce such a legislation and to propose that it should extend over the whole of India? I shall not be content with a mere general statement of the character of the legislation. I would invite the attention of your Excellency and of the Council to the actual proposals which the Committee have to put forward and show how they themselves looked at this question. In the first instance they have rightly raised a doubt to which attention has already been drawn by Mr. Chanda, about the competence of the Indian Imperial Legislative Council to introduce and pass a measure of such extreme severity and so far inconsistent with the established rules of evidence and justice. In paragraph 200 they say.

In making suggestions for legislation we have not considered at all whether it could be argued that such legislation is in any respect beyond the competence of the Governor General in Council. We have no authority to lay down the law on any such point, and any provisional assumption as the basis of our proposals would only cause embarrassment. We have proceeded therefore on the basis that any suggestions of ours which it may be decided to adopt will be given effect to by some legislature competent for the purpose.

I should like the Hon'ble the Home Member to tell the Council whether any note was taken by the Government of this paragraph in the report of the Rowlatt Committee, and, if so, whether any reference was made to His Majesty's Law Officers in England, to consult them on the question raised by the Committee.....

The Hon'ble Sir George Lowndes:—"I should like to intervene, my Lord, at this stage and state that no reference has been made to the law officers in England. There is no basis upon which

such a reference could be made. If either of the two learned lawyers who have suggested that this Council is not competent to legislate would give us something more to go upon than merely that paragraph in the Report, we shall be glad to meet them; but at present there is not in my mind the faintest shadow of doubt that we have got the power to legislate. Whether we should do so is another question."

The Hon'ble Pandit Madan Mohan Malaviya:—"I thank the Hon'ble the Law Member for telling us that no reference was made. I take that as a fact, but I think in view of the fact that a doubt was raised by a committee which the Government themselves had appointed, a committee that was presided over by a Judge of the High Court of England and consisted of three other gentlemen whom the Government had selected to advise them, this matter deserved to be treated with greater consideration than evidently the Government treated it with. However, I am not going at present—possibly I may do so later—to give my friend all the reasons upon which a doubt has been raised as to whether this Council is or is not competent to deprive any fellow-subject of ours of the safeguards of liberty which the English law provides for him, which ensure that no man's liberty shall be interfered with, that none shall be deprived of it for a day without a regular trial according to the ordinary rules of evidence and procedure laid down therefor. We have heard a great deal of the British character of the Indian administration. We have heard a great deal of the British sense of justice and of fair-play. I ask the Council, I particularly ask my Hon ble friends who are members of the British community, I ask them to say how they can really reconcile themselves to proposals which are embodied in the legislation we are dealing with. It seems to us impossible, incredible, that the British members of the Government should have without the fullest consideration agreed to such a course being adopted.....

(At this stage His Excellency the President left the Chair and the Hon'ble Sir George Lowndes took the Chair.)

The Hon'ble Pandit Madan Mohan Malaviya:—"May I ask, Sir, whether the Council may not now adjourn? The rules provide that the Council shall ordinarily go on till 4 o'clock and it is now half past four I have not gone through two-thirds of what I have to say, and I shall not be able to.....

The Hon'ble the Vice-President:—"I am afraid you must go on with the remaining third."

The Hon'ble Pandit Madan Mohan Malaviya:—"I do not know that I shall be able to finish."

The Hon'ble the Vice-President:—"I hope you will.

The Hon'ble Pandit Madan Mohan Malaviya:—"I definitely propose, Sir, that the council should now adjourn. If you will kindly turn to the rules, rule No 3 of the rules for the Conduct of the Legislative Business of the Council says, 'The Council shall ordinarily meet at 11 A.M., and shall not prolong its sitting after 4 P.M., unless the President otherwise directs.' There has been no direction that it should be prolonged, and I submit therefore that under the imperative words of the rules, namely, that the Council shall not prolong its sitting after 4 P.M., the Council should now adjourn.

The Hon'ble the Vice-President:—"If you think it necessary I will direct that the Council shall continue its sitting"

The Hon'ble Pandit Madan Mohan Malaviya:—"I again submit a point of order as to whether that direction should have been given before my motion was made. I submit if the direction had been given before the motion was made, it should have been unquestionable, but as it has been made upon my motion, I request the Vice-President to consider whether my motion ought not to prevail."

The Hon'ble the Vice-President:—"It is not open to the Hon'ble Member to question my ruling. I rule that the Hon'ble Member must proceed."

The Pandit then continued:—"What are the provisions of the Bill to which the Government asks the Council to give its support? Let us look into them. In the first place as I have already said it says—'Whereas it is expedient to make provision that in special circumstances, the ordinary criminal law should be supplemented and emergency powers should be exercisable by the Government.' Now, Sir, to make provision in special circumstances, to supplement the ordinary criminal law is a matter which, I think, is open to exception. If it was meant to pass a special Bill providing for a special procedure, as the Defence of India Act did, we could understand it. It would have been a measure of a temporary character, it would expire by efflux of time whenever that time was fixed. But, in this case, it is sought to make the measure a part of the permanent law of the land; it is sought to incorporate it in the Indian Penal Code and Criminal Procedure Code. My first submission is, that if there was a clear necessity for such a measure, if the Defence of India Act was not in existence, a special measure of a temporary character should have been passed, and this attempt to incorporate the measure in the permanent law of the land should have been abandoned. Then by sub-clause (2) of clause 1 the provisions are extended to the whole of British India.

I submit that in view of the Report of the Rowlatt Committee, there is no justification for passing any all-India legislation of this character. Let us assume that in Bengal tendencies of an evil character will not entirely disappear after the war. In that case it might be left to the Bengal Government to introduce legislation to deal with the crime that may show itself in that province. Does that just ify the casting of a slur on the loyalty of the whole of India ; the passing of a a measure which would lead the outside world to think that India was seething with disloyalty and discontent. The Punjab, the United Provinces, Bombay and the Central Provinces need not be grouped together with a province where revolutionary crime may be shown to exist. That is my second point. Part III says—

If the Governor General in council is satisfied that sheduled offences have been or are being committed in the whole or any part of British India to such an extent as to endanger the public safety, he may, by notification in the Gazette of India, make a declaration to that effect and thereupon the provisions of this Part shall come into force in the area specified in the notification.

What are these sheduled offences ? They include offences which constitute grave charges against the person and honour of people. Is it right that they should be tried in that fashion ? You want to provide for a speedy trial of such offences. It is evident to anybody that the Government of this country and of England have provided a most elaborate and careful procedure for the trial of grave offences ; summary trials are restricted to ordinary petty offences, trials of a grave character are to be Session Court trials or High Court trials ; a very elaborate procedure has been provided, the question of delay has not been overlooked and the mere circumstance that it would cause delay need not lead anyone to propose legislation of the drastic character now before us. May I ask the Hon'ble the Home Member, or any member of the Government, what will be the gain on the one side by a speedy trial of such offences ? There are certain offences the speedy trial of which is contemplated. It is not said that there shall be no trial, all that the Act seeks is a speedy trial, there is no suggestion to the contrary. It is not shown that there will be such a large number of offences of the character contemplated that the Courts will not be able to deal with them. The Rowlatt Committee have themselves shown a judicial mind when they state that they cannot say what the state of things will be after the war. In Chapter XVII they say,

The last part of our task is to advise as to the legislation, if any, to enable Government to deal effectively with the difficulties that have arisen in deal-

ing with conpiracies. This as expressed appears to us to be applicable to the state of circumstances under which the difficulties refered to were encountered. These difficulties have, however, been circumvented for the time being by special temporary legislation, and they have not been in operation at the time of our inquiry. When this legislation lapses, circumstances may have altered and the position may be better or worse.

They have not shut their eyes to the possibility that circumstances may so alter as to make it unnecessary to have legislation of a special character. They say it may be worse, no doubt, no sober, no responsible man can definitely and firmly say that there shall be no crime in India after the war, no crime of a revolutionary or criminal character. England herself has not been entirely free, nor have other European countries, while the bulk of the population has remained loyal. A manaic, a misguided man, one suffering from some aberration of the mind may commit some evil act, but that would not justify the passing for the country as a whole of such drastic legislation.

Then the second thing the Committee say is 'Further, there will, especially in the Punjab, be a large number of disbanded soldiers, among whom it may be possible to stir up discontent.' This, my Lord, is a most unkind sentiment. In view of the sacrifices which the soldiers of the Punjab have made, in view of the deep-seated loyalty which they have shown by sacrificing their lives and everything else that they could in the cause in the Empire, I must say, with due respect, that it would have been well that Government had not taken this view. If the Government will take the right measures to recognise in practice, in reality, with generosity, the sacrifices which they have made, to improve the conditions under which they live, to educate their sons, to find more food for them, to make it possible for them to have more clothing, to provide them with better comforts, to enable them to live lives better than the lives of mere ordinary animals, I am sure no efforts will succeed to wean them away from their loyalty to the King Emperor and the Crown. At any rate, my Lord, sufficient unto the day is the evil thereof. Let us wait in patience. It is only just and fair that we should wait with patience until these soldiers who have fought in the cause of the Empire show any tendency to be carried away by evil counsels, then it will be time, not to adopt miserable measures like the one that is before us now, but to devise measures of a gentle character, the object of which should be to prevent them from falling into wrong hands and to keep them in the path of duty and honour.

"Then, my Lord, the next thing to which I shall invite attention in the report of the Committee is in paragraph 177.

They have said clearly—"The measures which we shall submit are of two kinds, namely, *Punitive*, by which term we mean measures better to secure the conviction and punishment of offenders, and *Preventioe*, i. e. measures to check the spread of conspiracy and the commission of crime. We may say at once that we do not expect very much from punitive measures.'

"Now, my Lord, they say they do not expect very much from punitive measures. That being so, it was well that these punitive measures had not been suggested, but they are there, and they rely upon the preventive measures and it is with these that the Council is at present dealing. Now, my Lord, what do the preventive measures recommend and what are the difficulties which the committee felt confronted with in suggesting these remedies. I will invite attention to those difficulties. One great difficulty they have felt has been the want of evidence. In Chapter XVI they say, in paragraph 169 :—

'The main reason why it has not been possible by the ordinary machinery of the criminal law to convict and imprison on a large scale those guilty of outrages and so put down crime is simply want of sufficient evidence.'

That is the conclusion they have arrived at. Now, my Lord they refer to the cases in which this difficulty was felt. Now if there is want of sufficient evidence, the right thing to do is to make provision for getting that evidence in a reasonable, just and proper way, and not by allowing evidence which by ages of tradition of British justice has been excluded as evidence. It is want of sufficient evidence which they are confronted with. It is better that some persons who are guilty should escape or that many men should be exposed to the danger of their liberties, their honour being affected by a wrong piece of evidence being accepted. Evidence which has not hitherto been acceptable to British Courts should not become acceptable simply because a want of evidence has led to the acquittance or discharge of certain persons who are accused. This is not the only country where a number of persons who have been suspected of crime have been discharged or acquitted for want of evidence. There are other countries where the difficulty has been felt. The English layers and jurists have jealously guarded against any attacks upon the rules of evidence which constitute the best gurantee that justice, pure justice, shall be administered to every subject of His Majesty. Another difficulty which they have mentioned is the difficulty in establishing proof of possession of arms. They say :—'Where incriminating articles such as arms or documents are found, it is often hard to bring home the possession to any particular individuals. This occurs where the same premises are occupied jointly by undivided families, or even where a house or garden is used as a mess or meeting place for a number of youths.'

"It may be difficult; it may be regrettable; it may be that some criminals will escape punishment; but as the Committee have themselves observed, it is possible that the principle is a sound one, it is possible that this is a sound practice and it is proposed that this practice should be departed from, should be given up, and evidence should be admitted which has hitherto not been treated by English judges and jurists either in this country or in England as proper legal evidence. I submit, therefore, my Lord, that the recommendations of the Committee are not such that the Government are bound to accept them. They felt a difficulty, they did not feel clear that the state of things which would come into existence after the war would be sufficiently satisfactory to make it unnecessory for any special legislation to be continued. They did not feel clear about it. The Government might feel clearer. They have made the recommendations on the basis that possibly the other alternative might come into existence, But, I submit that there is very slender ground upon which to base proposals of the drastic character which have been presented to the Council to-day

"Now, my Lord, let us examine these proposals in some detail. In Part I it is said that 'if the Governor General in Council is statisfied that scheduled offences are prevalent in the whole or any part of British India, and that it is expedient in the interests of the public safety to provide for the speedy trial of such offences, he may, by notification in the Gazette of India, make a declaration to that effect.' Now, I have submitted before that the attainment of a speedy trial is not a need sufficiently grave, sufficiently serious, sufficiently in the interests of justice and the public interests to justify the introduction of a measure the object of which is to curtail the length of trials. It is not a sufficient justification. Even under the special procedure that is proposed in this Bill a trial may be protracted for several months. There may be any number of witnesses called; there will be three High Court Judges sitting. They will not record the evidence *verbatim*, but still there will be three High Court Judges sitting, they will take time in examining witnesses, and as there will be no appeal, a person who has the misfortune to be accused will have to do all that he can to strain every nerve, to spend every pice that he has, in order to procure the most excellent counsel's aid, to defend himself. I am not at all sure, my Lord, I say it with confidence, I am not at all sure that really, in practice, the length of the trials will be shortened It may be that there will not be trials in the ordinary course, first before the Magistrate, then before the Sessions Judge, then before the High Court. Possibly some time may be saved. But I am not at all certain that the time saved will be at all commensurate or at all worthy

of the consideration of being weighed in the scale against the danger of injustice to the accused. Besides, my Lord—I can understand that during the time of war, when there are possibilities of contagion spreading in the country, the Government might desire to have trials speeded up That may be possible, but when we come to normal times, when the war has come to an end and when peace has been fully restored, I cannot understand why there should be this desire for speedy trials. I ask you, my Lord, to consider what it means. It may mean that while you are following your motor car procedure, there may be some poor innocent soul crushed under the weight of that car, under the speed of that car. To him it may be the end of his life, his liberty and everything he holds dear. It will be no consolation to the State, it will be no gain to the public interests, that a man's trial was finished in 2 months rather than in 6 or in one month rather than in 3; but it may mean the loss of everything that a man holds dear, and I would ask any Member of the Council how he would like to contemplate the matter if he found himself placed in that position. I submit let us not secure a speedy trial at the sacrifice of doing an irreparable injury to a fellow man.

"Besides, looking at it from another point of view, as I have said, if a single Joint Magistrate hears a case and makes a preliminary investigation, if the matter comes into the Sessions Court, many matters and much of the evidence is weeded out, and by the time the case comes before the Sessions Court, both the prosecution and the defence know where they stand. If the matter comes straight before such a tribunal as is contemplated, I am not at all certain that that will not involve longer delay, for the man knowing that he has no appeal from the judgment which that Court may pass, will be anxious to produce every possible evidence that he can and will have to summon all the witnesses that he can, and I therefore apprehend that the trial will not really be a speedy trial but that it will be prolonged.

"Now, my Lord, assuming that this condition for the application of Part I is found to exist, what follows? The Governor General in Council declares that certain scheduled offences are prevalent in the whole or any part of British India. I ask you, my Lord, seriously to ask yourself whether, after the war, it is likely that the offences which are mentioned in the Schedule or which it is proposed to put in the Schedule, are likely to prevail in the whole or any large part of British India? I submit that it is not likely. There may be spasmodic cases; there may be some few instances here and there of misguided young men or other people falling into wrong paths; but it is not likely that offences of this kind will prevail over a large area in any part of the country. Well, sup-

pose that the Governor General is satisfied that such offences are prevalent in any part of the country, then what happens? In this country, my Lord, the Government has to take its information from the subordinate Government. The Governor General in Council is not directly in touch—except in very small parts of the country—perhaps with the local administration. The Local Governments are the Governments which must supply information to the Governor General as to whether scheduled offences are prevalent in the part of the country which is under them or not. The Local Governments must gather their information from the Police Department and from their subordinate officials. Now, my Lord, in this country we know what has happned in the past. While we deplore the evil tendencies which some young men have betrayed, while we deplore the crimes into which some young men have been betrayed, while we deplore the crimes that have been committed, we cannot forget that the Police has not a thoroughly clean record in this country, and the police, my Lord, have been guilty in the past of outrageous crimes which I do not want to refer at greater length. They have been brought to the notice of the Government in this Council, they have been brought to the notice of Parliament in England. Now, I do not want to say that those things will be repeated. I hope and pray they will not be; but is it right to shut out the possibility and to think that the police will always act in absolutely the right way, that there shall not sometimes be mischief created in order to show that in certain parts of the country certain crimes are prevalent? I do not say that it will be—I hope it will not be—but I beg the Government and the Council to remember the possibility of such ideas being circulated. And what will be the result? In that area, under clause 4 of the Bill,

'Where the Local Government is of opinion that the trial of any person accused of a scheduled offence should be held in accordance with the provisions of this Part, it may order any officer of Government to prefer a written information to the Chief Justice against such person.

"Now, my Lord, the clause says 'where the Local Government is of opinion that the trial, etc., etc.' I ask you, my Lord, how is the Local Government to arrive at a decision? It must have the fullest evidence before it can come to a safe and satisfactory conclusion that a fellowman should be deprived of the safeguards of justice whichthe ordinary law provides. I should like to know how many members of Government would like to take that responsibility upon themselves, and I should like urther to ask that if such cases should be numerous, is not the danger of their coming to wrong conclusions one which ought to be taken into account in dealing with this legislation? The Local Government being of opinion that the trial of any person accused of a scheduled offence should be

held in accordance with the provisions of this part, it may order any officer of Government to prefer a written information to the Chief Justice against such person. What follows?

No order under sub-section (1) shall be made in respect of, or be deemed to include, any person who has been committed under the Code for trial before a High Court, but, save as aforesaid, an order under that sub-section may be made in respect of any scheduled offence whether such offence was committed before or after the issue of the notification under section 3.'

"What follows, then, my Lord, is that this man is not given an opportunity before the Chief Justice to show cause why his case should not be tried under the special provisions herein referred to. He is not to be given that opportunity. His fate is sealed. The Local Government being of the opinion that he should be tried under the special provisions of this Bill, any officer can give written information to the Chief Justice and the Chief Justice is powerless. The Chief Justice has not the power to ask the man to show cause why he should not be tried according to the ordinary law, or why he should be tried according to this law. The Chief Justice has no option; he must try the man according to the special provisions of this Bill.

"Now, my Lord, what is the material upon which this order is to be passed? Sub-clause (3) of clause 4 says:

'The information shall state the offence charged and so far as known the name, place of residence, and occupation of the accused,'

The Hon'ble Mr. A. P. Muddiman:—"I desire ro draw your Excellency's attention to the fact that this debate is on a motion to refer the Bill to Select Committee, and the general principles of the Bill only should be discussed at this stage, but it seems to me that the Hon'ble Pandit is taking each clause separately."

The Hn'ble Pandit Madan Mohan Maiaviya:—May I explain, my Lord.....

His Excellency the President:—"You are not at liberty to discuss the details of the Bill."

The Hon'ble Pandit Madan Mohan Malaviya:—"I beg your pardon, my Lord. I want to explain the matter from my point of view for your Excellency's consideration."

His Excellency the President:—"There are certain rules and principles of debate which are usually observed on these occasions, and on this particular motion the principle of the Bill only is to be discussed, and then subsequently you will be able to discuss questions of detail. I think you are abusing the patience of the Council in pursuing any other course this afternoon."

The Hon'ble Pandit Madan Mohan Malaviya:—"My Lord, I am sorry that you think I am abusing the patience of this

Council. I think I am doing my duty. I submit for your Excellency's consideration that here is a Bill which it is proposed to refer to the Select Committee; a special procedure has been followed; I can only speak once on this motion; and I am giving all the reasons I can for saying why this proposal to refer the Bill to Select Committee should be defeated, dropped by the Council. I submit, my Lord, with great deference, that I am entitled to give every single reason that I can in support of my proposal; but if your Excellency thinks I should not, I will stop.....

The Hon'ble Mr. A. P. Muddiman:—"I only meant to suggest that the Hon'ble Pandit was taking every individual provision and discussing it separately. I did not suggest that the general principles should not be discussed by the Hon'ble Member."

His Excellency the President:—"No one has suggested that the Hon'ble Member should not discuss the general principles of the Bill; but as the Hon'ble the Secretary to the Council pointed out, you are dealing with each particular provision of the Bill separately. I hope the Hon'ble Pandit will obey my ruling and discuss the principles and not the details of the Bill."

The Hon'ble Pandit Madan Mohan Malaviya:—"I bow to your Excellency's ruling. I shall refer to the provisions of the Bill only in so far as they involve a consideration of the principles. I shall do that and in doing so my reference to the provisions will be only for that purpose and to that extent.

Now, the next point—may I continue, my Lord?

His Excellency the President:—Proceed.

The Hon'ble Pandit Madan Mohan Malaviya:—"The next point to which I would invite attention as another matter of principle involved is that referred to in section 6.

That section says:—

> The Court may sit for the whole or any part of a trial at such place or places in the province as it may consider desirable:
>
> Provided that the Governor General in Council, if he is satisfied that such a course is expedient in the interests of justice, may, by notification in the Gazette of India, direct that the court shall sit for the whole or any part of a trial at such place or places as he may specify in the notification.'

"Now, I submit, my Lord, that one of the principles of British justice is that the trial of a person who is accused of a crime shall be held in open Court at a place which is open to the public, and I submit that this provision which gives power to the Court to decide that a trial shall be held in a particular place, is an infringement and violation of that principle. To that extent, I submit, it goes against the principle which is at present embodied in the Codes.

"Then, my Lord, I come to another very important principle which is embodied in section 10. I should be very sorry if I should give the impression by any of my remarks that I am not fully respecting your Excellency's ruling. I am trying to limit myself to questions of principle, and I hope your Excellency will please take it from me that I have no wish to say one word more so far as the details are concerned, except in so far as they refer to principles. Now, my Lord, in section 10 it is said that:

'The court shall be required to make a memorandum only of the substance of the evidence of each witness examined and, subject to the adjournment provided for by section 9, shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.'

"Now, my Lord, one of the most important principles relating to the recording of evidence has been that the exact words uttered by a man when he was arrested or by other men who were examined at a particular time should be before the court. I myself had the honour of practising the profession of law for many years, and I know, my Lord, how careful, how jealous the Court is in noting down the exact words which have been used by an accused person. This practice has been so strongly insisted on in the United Provinces that the record which is kept of the statement of an accused person, made in the vernacular, is looked into to find out exactly what he said. Sometimes a single word makes a great deal of difference: the insertion or omission of a word may lead to his being deprived of his liberty or to his being able to save his liberty. So I submit, my Lord, that this principle which is proposed to be introduced is dangerous. I submit, my Lord, that anybody who is charged with such serious offences as will be put into the schedule should have the opportunity of having every word of the statement which affects his life or liberty recorded. Now, my Lord, sometimes a trial takes months, sometimes it takes weeks. I have known some Judges who can carry a great deal in their heads of the evidence they have heard; but they can carry after all only a small amount. I do not think that any Judge will take it upon himself to say that he will be able to carry all the nice points that arise in evidence in a long trial in his head, and that, therefore, there is no danger of his being led into error by the exact language used by a witness or an accused not being recorded by the Court. I submit that here is a departure of principle which is worthy of consideration.

"Then, my Lord, I will not go into any more details, but there is one of a cardinal character, namely, that which is embodied in section 17. That section lays down that—

The judgment of the court shall be final and conclusive and notwithstanding the provisions of the code or of any other law for the time being in force or of anything having the force of law by whatsoever authority made or done there

shall be no appeal from any order or sentence of the court, and no High court shall have authority io revise any such order or sentence or to transfer any case from such court.....

"I submit, my Lord, that this is a very grave departure in principle from the rules which have been hitherto laid down for the trial of offences, which enable a man to know what the charges are that are brought against him. Then the matter goes before either a Sessions Court or a High Court. There a judge or judges sit to hear and record the evidence and to come to a conclusion. We are all human beings, and judges also are liable to err like everyone else It is possible that two or three or more judges sitting together to hear a case in the first instance may attach too much weight to certain evidence which they ought not to, and may not attach the weight to some other evidence that they ought to. If they are to try the case from the beginning they start with ideas relating to the accused from the beginning to the end; and there is the possibility, I do not say more, there is the possibility of their judgments not being correct. Where a man's life is concerned, where a man's honour or liberty is concerned, is it fair to deprive him of the opportunity of having his case considered by another tribunal, by another two judges who will be able to bring a more detached mind to a consideration of the circumstances? I submit this is a very great departure from the principles of justice which have hitherto been embodied in our Codes. Then, my Lord, another important thing is that one embodied in section 18. Now, the result of section 18 is that a statement which was hither to not regarded as admissible in evidence will be regarded as admissible in evidence; and the condition imposed is this: where the statement of any person has been recorded by a Magistrate and such statement has been read over and explained to the person making it and has been signed by him, or the statement of any person has been recorded by the Court, but such person has not been cross-examined (at present this will not be admissible, my Lord, under the existing rules of evidence in the Evidence Act and of the best Codes that we have) such statement may be admitted in evidence by the Court if the person making the same is dead or cannot be found or is incapable of giving evidence and the Court is of opinion that such death, disappearance or incapacity has been caused in the interests of the accused. I submit, my Lord, this is a very dangerous and novel principle introduced in the Bill. Hitherto, the Courts have insisted upon the accused having had an opportunity to cross-examine the man whose statement was to be used against him. If that opportunity was not available that statement was not used against the accused. Now, my, Lord, it is urged that if the Court is of oppinion that such death or disappearance or incapacity to give evidence has been caused in the interests of the accused—that, my Lord, as my friend

Mr. Jinnah points out, will create a case within a case and that lets in a great deal of danger and injustice being done if this novel principle is accepted. I can at least understand that under section 114 of the Evidence Act if evidence which should have been produced is not produced, there may be a presumption made against the person who does not produce it, or if the Court is satisfied that the accused had had a hand in the disappearance of this evidence it may make a presumption against him and it may take that into account; but I submit that to admit the statement of a man who out of enmity or out of any other evil motive or under the influence of some enemy of the accused makes a statement, is going too far, the person who got him to make that statement knows or suspects that it is not the true statement. Now if this man by any chance happens to die or is removed, and if some evidence is given which satisfies the Court that the man was removed in the interests of the accused person, the statement of that man becomes evidence. I submit, my Lord, it is very great wrong which lurks there to the accused person; hitherto the Courts have stuck to the principle that the person against whom a piece of evidence is given is to be given an opportunity of cross-examining the man who has made the statement against him, and. this section proposes to depart from that principle. This is wrong

"Thus, Sir, I have dealt with Part I of the Bill. I will now go on to Part II. Now, my Lord, this if more dangerous than even Part I, and the principles which are involved in it are such, my Lord, that I submit with great respect government should not accept them and should reject them. These are preventive measures 'If the Governor General in Council is satisfied that movements which are, in his opinion, likely to lead to the commisson of offences against the State are being extensively promoted in the whole or any part of British India, he may by notification in the Gazette of India make a declaration to that effect, and thereupon the provisions of this part of the Bill shall come into effect in that area.' Now, what does happen? If in the opinion of the Local Government there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of the nature referred to in section 20, the Local Government may by order in writing containing a declaration to that effect give all or any of the following directions, namely.' Then follow the directions, I submit, my Lord, that this is a very dangerous provision. Hitherto the principle has been as it is reiterated in the Criminal Procedure Code, that if the Government has any reason to suspect that a man is concerned with offences and the evidence cannot be proved against him, there is a procedure provided to ask him to give security or to bind him over or to make investigations about it, and when material has been found to justify a prosecution being launched against him, to

prosecute him. Hitherto it has been the judicial Magistrate who has been asked to deal with such cases; a complaint is made by the Superintendent of Police or the District Magistrate or by any private individual against a certain man; then the Code provides that the Magistrate shall call upon that man, that he shall record evidence and call upon the man to give evidence against it, and where there is ground to bind him over or to direct him to furnish security or some such thing. The Magistrate would deal with the case, in which case there is an opportunity for a revision against the order of the Magistrate by a higher authority. What is substituted for that is the opinion of the Local Government. Now, my Lord, I will give you one instance. Mr. Tilak was bound over to give security in a certain case a couple of years ago or less than two years ago. The Magistrate asked him to give security. He appealed and had the order revised by the High Court. The High Court set aside that decision and let him free. Now, if this Act comes into force, if in the opinion of the Local Government any person is in that position the fate of the person would be sealed; he will have no chance of going to the High Court. The Local Government's opinion is law; he will have deprived him of liberty, locked him up without giving him a fair chance of having the matter tried in a judicial way. I submit, my Lord, that is a dangerous principle and ought to be eliminated from the Bill. The Bill bristles with principles of a very novel and dangerous character. What the Bill does is this; the Local Government to express the opinion first that a man is of that character and thereupon that opinion being formed, the Local Government has to issue orders what under the existing Code a judicial authority would do. Having done that, the Local Government goes to the investigating authority and that investigating authority has to investigate the matter as to find whether the Local Goverment's order is right or wrong. I submit, my Lord, that is putting the cart before the horse; it is a preposterons procedure. The right thing to do is to give the man a chance before you shut him up; here you shut him up, you pass that order, create a black mark against him and then constitute an investigating authority to consider. What is it to consider? After the Local Government makes the order under section 21, such Government shall (it is imperative; it is not left to the descretion of the Local Government) as soon as may be, forward to the investigating authority to be constituted under this Act their statement in writing setting forth plainly the grounds on which Government consider it necessary that the order should be made, and shall lay before the investigating authority all material facts and circumstances in its possession in support of its action.

"Then, my Lord, the investigating authority shall hold an inquiry

in camera. That is a departure from existing principles. It is said 'the investigating authority shall then hold an inquiry *in camera* for the purpose of ascertaining what, in its opinion, having regard to the facts and circumstances adduced by the Government, appears against the person in respect of whom the order has been made. Such authority shall in every case allow the person a reasonable opportunity of appearing before it at some stage of its proceedings and shall, if he so appears, explain to him the nature of the charge made against him and shall hear any explanation he may have to offer, and may make such further investigation (if any) as appears to such authority to be relevant and reasonable.' The right thing is to let the matter go before a Magistrate or before a High Court Bench ; why should there be executive officers in place of judicial officers ? Is there not a danger of injustice being done when the Local Government arrives at conclusions on materials set before it ? This is a principle which is novel and ought to be discarded. Then, my Lord, there is another principle of a novel character which is incorporated in the first proviso which says that 'the investigating authority shall not disclose to the person whose case is before it any fact the communication of which might endanger the public safety or the safety of any individual.' I submit that my liberty is all to me, and unless I am found to be unworthy my liberty must be protected. I submit that this is a wrong procedure. If a man is assaulted or accused, he has the right to know by whom and there is a danger of injustice being done if these facts are with-held. This is another case of the subversion of principles which have been always honoured in the United Kingdom and wherever British Courts have been established. The next sub-clause says, 'subject to the provisions of sub-clause (2) the inquiry shall be conducted in such manner as the investigating authority considers best suited to elicit the facts of the case ; and in making the inquiry, such authority shall not be bound to observe the rules of the law of evidence.' Now, your Excellency, as a member of the Bar you know what the rules of evidence are and how jealously judges have guarded against any attack upon these rules, and here the Bill lays down on behalf of Government that the investigating authority shall not be bound to observe the rules of the law of evidence. That is connected with the statement of the RowlattCommittee that many persons were unpunished simply for want of sufficient evidence. If some persons went unpunished for want of sufficient evidence let them go unpunished, the world will suffer less by that than that one innocent person should be punished and deprived ot his honour and liberty under a wrong procedure. This Bill wants to put this on the Statute-book. Now my Lord, I come to the third part, the whole Bill is in progresion, the second part is stiffer than the first part and the third part is stiffer than the sccond. Now in the third

part it is said 'if the Governor General in Council is satisfied that scheduled offences have been or are being committed in the whole or any part of British India to such an extent as to endanger the public safety, he may by notification in the Gazette of India make a declaration to that effect and thereupon the provisions of this Part shall come into force in the area specified in the notification.' Then the next clause goes on 'where in the opinion of the Local Government there are reasonable grounds for believing that any person has been or is concerned in such area in any scheduled offence the Local Government may make in respect of such person any order authorised by section 21' This is a plain and unvarnished attempt to substitute the executive for the judical. I submit that is subversive of all principles of justice. How is the Local Government to decide whether any particular person has or has not been concerned in scheduled offences without giving him an opportunity of defending himself by the law as provided ; no Local Government should be permitted to sit in judgement upon him in the manner proposed. Then the Bill goes on to say that the Local Government may order (*a*) the arrest of any such person without warrant ; (*b*) the confinement of any such person in such place and under such conditions and restrictions as it may specify ; and (*c*) the search of any place specified in the order which in the opinion of the Local Government, has been, is being or is about to be used by any such person for any purpose prejudicial to the public safety.' I submit that this is arming the Local Government with very great powers ; the judical and executive have been separate departments under British administration, let them continue so. You have claimed, and rightly claimed, a great deal of glory for your system of justice ; do not, I pray you, touch that system in the manner in which it is proposed to touch it, let them stand separate ; the constitution of England does not contemplate that any executive authority shall sit in judgement on any man or deprive him of his liberty or his honour ; that function has been entrusted to the judicial Courts properly constituted. The Bill goes against that principle completely ; this is in reality substituting the Local Government for the judicial Courts. The Bill next says 'the arrest of any person in pursuance of an order under clause (*a*) may be effected at any place where he may be found by any police-officer or by any other officer of Government to whom the order may be directed. Sub-clause (3) An order for confinement may be carried out by any officer of Government to whom the order may be directed and such officer may use any and every means to enforce the same.'

Clause 34 says :—

'Any person making an arrest in pursuance of an order under clause (*a*) of

section 33 (1) shall forthwith report the fact to the Local Government and, pending receipt of the orders of the Local Government, may by order in writing commit any person so arrested to such custody as the Local Government may by general or special order specify in this behalf.'

"Now, my Lord, I am entitled, if I have erred, to have an opportunity of knowing where I have erred, and of defending myself. The Local Government issues an order and the man is not only arrested but is locked up in custody. I do not know, my Lord, how such a proposal has commended itself to any Member of this Council.

"At this late hour I shall not go into the details which are dealt with in the last part. Now I ask your Lordship to consider whether, in view of the very cautious way in which the Rowlatt Committee has put the case for legislation, in view of the fact that they have accepted one alternative which has been the unhappy and dark alternative, and that they have regarded the bright one, in view of all the changes that have happened and are going to happen, in view of the great part which India has played in the war, in view of the loyalty of the Princes and people of India which has been acknowledged in high quarters, I ask, my Lord, is this the time to introduce a measure of this kind ?

I would remind the Council of what Government did in South Africa In South Africa General Botha fought against His Majesty's Government in the Boer War. How did the Government treat him ? They established self-government in South Africa and made friends with him, and in this great war the part which General Botha has played and the magnificent services which he has rendered have been acknowledged with gratitude by British Statesmen and the whole world has admired him. That, I submit, is the way to win people who are subjects of His Majesty who may be led into wrong paths ; that is the way to win people by liberal administrative measures. Let race distinctions be obliterated; let the recommendations which have been made in your Lordship's and Mr. Montagu's Report be adopted with such further recommendations as have been made by public bodies and let the question of the Services be dealt with in the liberal manner in which it has been suggested in the Report. Let Commissions in the Army be thrown open to Indians. Let there be industries multiplied and encouraged. Let there be fresh courses of education and fresh careers provided to young men Then there will be gratitude in the land ; there will be satisfaction in the land ; there will be contentment in the land, and we shall not hear any more of revolutionary crime. If there should be any crime still lurking anywhere, the way to deal with it will be a much gentler and a more parental way, and not the way which has been suggested here. For these reasons, Sir, I oppose the motion that this Bill

should be referred to a Select Committee. I submit that the Bill should be dropped."

The Hon. B. D. Shukul in the course of his speech said — "My Lord, we stand on the thresh hold of a momentous epoch, we have just emerged victorious from the worldwide war, the greatest of all wars in history, in which Indian soldiers have fought, side by side with their European comrades, for the highest ideal of humanity, for defending the cause of justice and liberty, and for the establishment of the victory of right over might. To-day the ideas of freedom and liberty are pulsating the life of the nations of the world. Is this, I most humbly ask, an opportune moment when the Government should have brought forward a measure for the approval of the Council which marks yet another step in the policy of repression, which has never been known to have succeeded in achieving its purpose? My Lord, whenever and wherever it has been resorted to, it has only served to stiffen the peoples' determination for national freedom and to create a feeling of bad blood between the rulers and the ruled.

"Your Lordship and the Right Hon'ble the Secretary of State have just revived the buoyant faith of the people in the British sense of justice and their spirit of liberalisation by inaugurating a noble scheme of reforms, and it is a sad irony of fate that your Excellency's Government should have thought of embarking upon a policy which would only serve to further feed the glowing embers of political discontent. My Lord, the present moment is a most delicate one. You hold in your hands the future of India. It is for you to mend or mar it, and our best hopes for the future of this great country are centred in your Lordship, and in the steady pursuit of a policy of wise conciliation on the part of your Excellency's Government, which your Lordship has already inaugurated and which I am sure you do not want to go back upon.....

"The evil in itself which we are called upon to grapple with is not an old one. The very cult of anarchism is foreign to the nature of the people of India. The measure proposed, he said "will raise a tremendous storm of opposition and will provoke an agitiation of unparalleled magnitude hitherto unknown in the history of India, and I for one shall not advise the Government to take that risk. It is going against the very pledge that the Hon'ble Sir Reginald Craddock gave to the people on behalf of the Government while introducing the Defence of India Bill in 1915. He then assured this Council that those powers were required 'only during the continuance of the war and for six months after, that is to say, until the excitement and disturbance of the general calm, which the state of war engenders have had time to subside.' In view of

these definite assuranaces, my Lord, on behalf of the Government, would it be fair to recede from the position when the war is over? Well, all of us are for the maintenance of law and order in the land. Keep order, by all means, but excess of severity my Lord, is not the path to order, to use the words of Viscount Morley. On the contrary, it is the path to the Bomb. We are as anxious as you are that India should have a long spell of peace and prosperity. We do not wish that India should be plunged into a state of anarchy and rapine, bloodshed and chaos. But at the same time, we do not wish that India should become desperate and be forced to play the role of another Ireland in the East. While we are strongly of opinion that anarchy should be suppressed with a strong hand, it is our sincere desire that, in suppressing anarchism, you do not unreasonably infringe the natural rights and liberties of the people and do not frustrate their legitimate aims and aspirations.

"Well, so far as the present Bill is concerned, without entering into the details thereof, I make bold to say there is a real danger, as the people anticipate, that the Bill will seriously threaten the liberties of even the innocent people. You do not only legalise secret inquiries and trials, but you dispense witch all rules of evidence. The accused has no chance to prove his innocence before he is arrested; you deprive him of the right of trial by the ordinary Courts of Justice; you deprive him of the right of trial by jury, and above all you withhold from him the right of appeal and revision. The provisions of the Bill on the whole are immensely wide and drastic, and yet they do not go to the root of the evil, and why? Obviously, because they do not affect the causes which helped the propaganda of anarchism to spread. The authors of Report of the Rowlatt Committee state in paragraph 24 of the report that 'The education which the people receive is generally literary and ill-adapted to incline the youthful mind to industrial, commercial or agricultural pursuits; they have not succeeded in finding fresh outlets for their energies. Their hold on land too has weakened owing to increasing pressure of population and excessive sub-infeudation. Their economic prospects have felt the pinch of rising prices.'

"My Lord, this the crux of the whole situation. These are the real and important problems that the Government have to face and face them boldly. So long as you do not relieve the acuteness of the present situation of economic helplessness, so long as you do not adopt bold measures to make the Indian peasantry happy and prosperous, and so long as you do not improve the system of your education and make the prospects of the educated middle class brighter and more hopeful, and unless and until you satisfy the legitimate demands of the people and set aside all

racial distinctions giving rise to perpetual discontent, rest assured, my Lord, that you may go on, if you will—as you have the power to do—employing measures of more and more drastic nature than those you propose even to-day, till you eventually exhaust your resources of repressive legislation, but you will never be able to achieve the object, which both you and we have in view, namely, the suppression of anarchism, and it is for your Lordship to consider whether it would be fair and expedient to permanently place upon the Statuate-book a measure which may prove ineffectual in stamping out anarchism, but may yet cause unnecessary interference with the rights and liberties of those who are innocent. The Bill, I find, has already made the people nervous, protest meetings are being held all over the country, representations and protest telegrams are pouring in daily, and a violent agitation has already been set on foot, and if the people have their own misgivings and fears about the operations of the Bill, the fault is not theirs, but of those who were responsible for indiscriminate administration of the Indian Defence Act in the past. The Hon'ble the Home Member has assured us that the provisions of the Bill will be used against no activities other than those of sedition, but may I ask your Lordship if similar assurances were not held out to the country by the Hon'ble Sir Reginald Craddock while introducing the India Defence Act? We have known but too well what these assurances are worth and we have been forced to the conclusion that the very system which is inseparable from policy of distrust and suspicion underlying this Bill, is responsible for the miscarriage of justice, and it is for this reason above all, that I hesitate to accord my support to this measure. I do so, not in any spirit of opposition, but from a sense of duty as token of the earnestness of my desire to whole-heartedly co-operate with you, in your attempt to prevent and suppress anarchism. Let me tell your Lordship that if you really wish to have our whole hearted sympathy and support, first take us into your confidence, give us full opportunity to examine for ourselves the material available on the subject and enable us to form our own independent judgment about them. Besides enlightening us on the subject, that will give to the country necessary time to think and consider. So long as this is not done, I for one would hesitate to accord my support to the Bill. My Lord I fail to understand why the Government should be in such a great hurry about the enactment of this Bill. The war has been just over. The defence of India Act has yet many a month to run its course. The early prospect of the new constitutional reforms being brought into force has considerably eased the situation. The effect of the release of a very large number of detenues has still to be seen. Why not let the country

enjoy a little respite, and watch the result of the new reforms and the effect of the adoption of such ameliorative measures, as are recommended by the Industrial Commission? First, pursue a policy of trust and conciliation, initate reforms for which the people have been urging for the last 30 years, meet their legitimate demands, remove their wants and grievances and see how they behave. I am sure, my Lord, you will not have to be disappointed. Should that policy fail, and should you notice a tendency for increase in the number of anarchical crimes, then the time for adopting a policy of stiffer character will certainly come, and we shall all willingly co-operate, but not till then. My Lord, the Government called on us to co-operate with it, and so we did. While the war lasted we supported every measure which the Government thought fit to introduce for the purpose of maintaining law and order in the land, but now when there is all calm and quiet in the land, will it be too much to ask the Government to acceed to the wishes of the people in this matter, and as appealed to by my Hon'ble friend Pandit Madan Mohan Malaviya follow the example of that great country England which have served as our ideal, on which are based all our future hopes and aspirations, and I hope and trust that the Government will withdraw the Bill My Lord, do not forget that the existence of British rule in India is to implant those ideals of justice, law, humanity which are the foundations of your own Western civilization, and let not the Government of India do any act which is not consistent with those noble principals or fall short of the high expectations that India holds of you. If the Government do not heed this and let the Bill proceed, there will certainly follow a voilent agitation the like of which India has never witnessed before, and the responsibility for the same will then be yours, my Lord, and not ours."

His Excellency the President:—"As the Hon'ble Pandit Malaviya is now in the Council, I will give him my decision on his request that he might be supplied with the minutes of my Government and my correspondence with the Secretary of State in regard to the Bill now under consideration I have decided that the papers in question cannot be supplied to the Hon'ble Member, and I will take this opportunity of stating for the information of the Council that in my judgment records of the confidential deliberations of the Executive Council are not papers or returns within the meaning of Rule 13. I may add, for the information of the Hon'ble Member, that the Secretary of State was asked to agree to the publication of the Bill under Rule 23, and that his reply was in the affirmative

The Hon'ble Sir Verney Lovett:—"My Lord, as a member of the late Rowlatt Committee, I would like to begin by thank-

ing the Hon'ble Members of this Conncil who have criticised our recommendations, sometimes in unflattering terms, for the courtesy and consideration with which they have referred to our findings of fact and ourselves. I trust that in whatever I have to say I may show an equal courtesy.

There is no need for me to justify our findings of fact. They have not been seriously impugned, and such remarks as I have to make will proceed on this basis. We each did our utmost to ascertain the real facts, and when we had found them, we considered possible legislative remedies and preventives. The Hon'ble Mr. Jinnah says that the present Bills which simply embody our recommendations are "entirely against the will of the people" Do the people really understand what the issue is and have they grasped the facts? In my opinion they have not, in spite of the earnest endeavours of the Rowlatt Committee to state the issue and to detail the fact in such a manner as to admit of no misunderstanding. I do not think that the Hon'ble Members of this Council who have spoken have grasped the real issue, but I will endeavour to make it clear, and if I succeed in doing so, I will ask Hon'ble Members to explain it to their constituents They are here after all because they lead and not because they follow, however heavily they may be bombarded by telegrams. There is yet time for them to lead wisely. The issue to-day is this. Is the Government to take legislative measure or not to cope with blood-thirsty crime and sedition in India, and to protect from these hideous evils its subjects and loyal servants? That is the present issue. There is no other. The issues before the Rowlatt Committee were first, what do you consider to be the nature and extent of criminal conspiracies connected with the revolutionary movement? Secondly, are you able to suggest to Government new or additional laws by which such violent crimes can be prevented? I would venture to remind Hon'ble Members that the laws do not cease to be the law because it is supplemented or altered in the light of bitter and tragic experience We are told that the Rowlatt proposals outrage ordinary ideas of British fair play. We were not all British on our Committee. We had the invaluable assistance of two Indians, men of great legal experience and of sterling independence, from whom we parted with the highest respect. They are not men who enjoy newspaper abuse any more than do the Hon'ble Members of this council. I maintain that our proposals violate neither British nor Indian ideals of fair play. I need not discuss them in detail now, as the Bill has to go to select Committee Our most prominent suggestions were devised to meet possibilities ranging as we said from incipient sedition to incipient anarchy. These possibilities will not be prevented from materialising by cheerfully ignoring them. Dangers are visible. They were visible to the Rowlatt Committee,

and they are visible more clearly now. They are not lessened by the triumph of blood-thirsty violence in Russia, even though that triumph be partial and temporary. We know from the foot-note to page 15 and from paragraphs 90 and 94 of the Sedition Committee's Report that Russian terrorist methods have been already carefully studied by Indian fanatics.

"But apart from such influences there are special perils waiting for impressionable young Indians. Let me read the statement of Narendra Dutta Gupta on page 193 of the Report. After confessing to the murder of a brave and loyal servant of Government he said :—

I make this statement so as not to injure Jatin but as I have come to understand that anarchism will not benefit our country, and the leaders who are now blaming me, now thinking the deed that of a head-cracked boy, to show them that I alone am not responsible for the work. There are *many* men behind me and Jatin, but I do not wish to give their names in this statement. The leaders who are now blaming me should be kind enough to come forward and guide boys like me in the good ways.'

"This statement was made some years ago, but does any reflecting reader or the Report believe that the leaders who first depraved and then blamed this miserable victim have vanished from the earth ? The Rowlatt Committee did not think so. And it is clear from the Home Member's speech and from a speech recently made by the Hon'ble Sir Henry Wheeler in the Bengal Legislative Council, that the Commitee was right, that such men not only exist but intend to renew there villainous work when opportunity offers. They are even now encouraged and assisted by speeches and newspaper articles instinct with bitter racialism and published broadcast which, every one knows, are only too common. Does past experience show that such speeches and articles produce no fruit ? It shows the very contrary. They frequently produce fruits which astound their authors. The Hon'ble Mr. Bannerjea in advising Government to withdraw these Bills urged that they violated the principle that conciliation should preceed coercion. Has it not in fact done so here ? Long before these Bills were projected, before even the report of the Sedition Commitee was published, the Reform proposals of your Excellency and the Secretary of State were given to the world. When these proposals were published, your Excellency and the Secretary of State had read the Report of the Commitee, but were none the less determined to endeavour to meet political aspirations Your proposals were hailed with only slightly qualified enthusiasm by that party of Moderates of which Mr. Banerjea is the leader. The Hon'ble gentleman and others have proposed amendments asking for delay in introducing these Bills, but it is plain that their real objections are to the Bills themselves. Failing the withdrawal of these Bills for good and all they

wish the Government to wait and see how the Reforms operate, how far the economic and social conditions improve, and whether the revolutionary movement claims any more victims or not. Now, it is these unfortunate victims who find no place whatever in this specious programme. Not one speaker has considered them at all ; we have heard a great deal about the poor young men who may be wrongly condemned by three fallible High Court Judges and subjected to police supervision by the orders of an untrustworthy executive. But what about the persons who have to be protected from the movement of which these young men are the exponents ? They too are God's creatures, and they are generally, though not always, Indians. What is to happen to them ? We know from the Report what has happened to them in the past. I will give two samples. The first is from the record of the year 1915. The Report says :—

'It remains to mention three murders which occured in Eastern Bengal this year. On the 3rd of march Babu Sarat Kumar Basu, the Head Master of the Zilla School at Comilla, was shot dead while walking with his servant. The servant was wounded in the stomach. A Muhammadan who pursued the murderers received two shots in the chest and a woman was accidentally struck by a bullet from one of the pistols. Five empty Mauser pistol cartridges were found upon the scene. The Head Master's servant eventually died. The victim of this murder had come into antagonism with political parties in Bengal in 1908, and shortly before his murder had had occasion to report to the District Magistrate about two students concerned in the distribution of seditious pamphlets. None but political reasons can be assigned for this murder.'

"The Report goes on to mention the murder of a Police Officer who was shot with his child by four or five youths armed with Mauser pistols. The second passage which I should like to quote is from the record of the year 1917 :—

'Another dacoity in 1917 remains to be specially mentioned. It was committed in a goldsmith's shop at No. 32, Armenian Street, Bura Bazar, Calcutta, at about 9 P. M. on the 7th May. Two young Bengalis entered the shop and asked to see jewellery. Then four young Bengalis entered the shop and began firing wildy with pistols. Two brothers of the owner who were in the shop fell mortally wounded. There were also in the shop an assistant and a servant, who were both wounded, two women, one of whom escaped and the other hid under a bench, and a Muhammadan who escaped. The dacoits decamped with jewellery to the value Rs. 5,459, and some of them drove away in a taxi-cab that they had in waiting."

"In neither of these cases was a single conviction obtained. There have been many such cases. The fate of these poor victims seems to me to deserve a little more than conventional regrets from the Members of this Council. My Lord, what has come from delaying and hesitating to grapple adequately with these evils in the past ? What has resulted from the absence of laws broad enough to cope with terrorism and revolutionary conspiracy

working together among a simple and heterogeneous population in an enormous country? We know from the Report what has happened. As the Committee pointed out in paragraph 174, it was only when the Bengal conspiracies had enjoyed a two years' run, when two English ladies had been murdered, and as Lord Minto said 'the seeds of wickedness had been sown among a strangely impressionable and imitative people' that the first preventive Bill of these latter years was enacted. Enormous mischief had been done. The Government of India waited then. Again they waited, during that critical period from the 19th December 1914, when the Punjab Government asked for the very early promulgation of a draft Ordinance, in order to deal with the prosecution and suppression of violent crime, waited up to the passing of Defence of India Act in March 1915. Would they have waited had they foreseen the long tale of intervening crime, had they known that within this period conspiracy would almost achieve widespread bloodshed at large centres from Calcutta to Lahore? Why did they wait? They waited because they were reluctant to supercede the ordinary stature law. The Rowlatt Committee did not think that they would have hesitated to employ special preventive laws had such been ready to hand. My Lord, surely the past teaches us that sacred as is the name of liberty, it should never be so interpreted as to cover license to enemies of us all, of the Government and of Society, to work out their plots as they please. I wonder if Hon'ble Members have read those words spoken on the scaffold, in a last hour of awakening, by one of the victims of the French Revolution who had assisted to raise the storm which swept her away. 'Oh, Liberty! What crimes are committed in thy name!' This is indeed a true saying. We are told that the crimes of the Terrorists will disappear before political concessions, that they are merely the product of unsatisfied political idealism. Persons who really think this fail entirely to understand the frenzied and irreconcileable spirit which guides this insane, this inhuman war against Society. It is a spirit which, as the Report shows, burns with racial hatred and spurns political concessions. I am speaking of the spirit of the directors of the movement, men like-minded with the notorious Hardyal. The others are their tools. The criminals are comparatively few, but their facilities are great, and their organisation has been elaborate and widespread. Their achievements would, as the Report points out, have been more considerable had these been able to procure a more abundant supply of arms Their designs have been furthered all along by the absence of anything like determined, persistent non-official opposition to their propaganda of racial hatred I remember indeed one fine courageous speech of Mr. Gokhale's delivered to the Students' Brotherhood at Bombay on the 9th of October 1909. I

commend it to all true Indian patriots. It should be graven in their minds. Had there been more of such speeches and had such speeches been followed by determined, widespread action and organisation, a number of misguided youths would have been a credit and a joy instead of a disgrace and sorrow to their parents, and there would have been no Rowlatt Committee. As it is, the attitude of too many politicians towards the Terrorist movement has resembled that of a nervous person who hearing a burglar in his bedroom feels happier and safer when he pulls up the blanket over his head. My Lord, things being as they are, and not as we all hope they will one day be, I do not see how without special legislation of the kind proposed by the Rowlatt Committee, revolutionary plotters are to slink back discouraged and loyal subjects and servants of His Majesty the King-Emperor, whose sole offence is wealth or their loyalty, are to receive from the law that protection which no self-respecting Government in the world would refuse them. The Government of India cannot sit down and twiddle its thumbs, as apparently some Hon'ble Members wish it to do, because all judges and policemen are fallible, the Executive is human and prone to err, and high provincial officials are a truculent lot. When the Congress and Moslem League deputations arrive at Bombay *en route* for England, they will not be deterred from embarking by the reflection that 'ships are but boards, sailors but men and then there is the peril of waters, winds and waves.' Perhaps these pessimistic members forget that in future far more of these Sessions judges and officials will be Indians than are Indians now. This reflection may reassure them. Be this as it may, Indian parents have a right to expect that Government will take as effective steps as possible to prevent revolutionary plotters from depraving and ruining their sons. There are, too, others who have the strongest claim on all of us, non-officials. It is pre-eminently due to the loyal Police Officers of the Crown, British and Indian, to the loyal landlords and peasant proprietors of the Punjab, that India was not disgraced in the first year of the war, despite the valour of her soldiers and her own general loyalty. They frustrated the plots of the revolutionaries; they stood in the van; they bore the brunt. Should the Government of India fail now to do its utmost to shield the homes of its loyal Indian servants from cruel bereavement, would its own roof-tree stand the firmer? It would not. It would gradually totter to well-deserved catastrophe.

"My Lord, I appeal to our non-official colleagues to look at facts that stare us in the face. It is only by recognising existing facts that we can hope to build truly now. As Mr. Gokhale once said 'Life is not like writing on a clean slate. We have to take the words existing on the slate, and add other words, so as to make

complete sentences and produce a harmonious whole.' We must, my Lord, take things as they are, build on what is sound and right, remedy what is horribly wrong if we would indeed rise to higher things and realise the future which your Excellency has so earnestly sought, with infinite labour, for the people of this country."

The Hon'ble Dr. Tej Bahadur Sapru said that no Indian who is worth his salt in this Council would be true either to his own convictions or to the Government if he were to equivocate on an occasion like this. The path of duty being clear, they have decided to oppose this Bill and support the motion which has been put by Mr. Patel. The Hon'ble Sir William Vincent said that we would be judge by the attitude that we adopt towards this measure In other words, the position is this. If we want to establish our capacity for self-Government, or responsible government, we must be prepared to support the Government in carrying this measure through. We have been hearing this argument for the last several months. But my Lord, let us examine the position. If we do not support this measure, we are not fit for responsible government or self-government. If we do support this measure we are again not fit for responsible government, because admittedly the country is seething with discontent and anarchy, and where there is anarchy there cannot be self-government or responsible government. My Lord, may I ask our critics to tell us on some authority whether, if we were prepared to support this measure to-day whole-heartedly, they would be prepared to give up all their opposition to our claim for self-government and say 'Oh, well, Indians have now established to the hilt their fitness for self-government'. My Lord, the resources of our critics are inexhaustible, and if an argument like that will fail them I have no doubt that we shall be face to face with a multitude of arguments of a different character to show that we have not yet developed character and capacity for self-government.

Sir Verney Lovatt in his very spirited speech just now told us that we had absolutely missed the issue. I may assure Sir Verney Lovatt that we have not missed the issue.....

"My Lord, the Indian politician is somewhat of an unfortunate being. His attitude is seldom correctly appreciated. Throughout the discussion it has been assumed that those of us who are not prepared to support the Government on this occasion have got a soft corner in their hearts for the anarchist or the revolutionary. That is not so. What the Indian politician wants to know is this. Are the measures that you have been taking, is the measure that you propose to take to-day, the sort of step that is necessary, that is essential, for the uprooting of this evil which has grown in this country ? My Lord, I have no doubt whatsoever in thinking that these are not the measures which will undo the mischief that has

come about in this country or that will uproot the evil that has grown. You have tried repression during the last ten years on various occasions, and yet you find to-day that you are not in a position to say that you have been able to quell or suppress all these activities, and I venture to think, my Lord, that even this measure will fail.....

The entire provisions in Parts II and III are so subversive of elementary principles of British jurisprudence, they are so shockingly unlike anything known to British institutions or British law, that I venture to hope that the Statute-book will not find a standing place for this uncanny intruder. My Lord, the homage that is sought to be paid to law in the constitution of this investigating authority is in my opinion nothing but a mockery. Either you must abide by the law inherited by us through ages, or you must frankly say 'we do not care for these judicial forms and we will frankly reserve this power to the executive, and do not care that there shall not be any further inquiry.'...My Lord, as a lawyer trained in the British system of jurisprudence, as an Indian who loves his country and who is interested in the ordered progress of this country, and wants self-government, who is anxious to have responsible government at an early date, and who is anxious for the parmanent connection between India and England, my Lord, I think it is my duty to oppose this measure. My lord, during the last few monhts I have been going all over the country with the Reforms Committee, and my experience has been that the feeling for the proper reception of reform is fast growing until day before yesterday.....

" And lastly, my Lord, there is one more point which I would urge upon your Lordship's attention and upon your Government. My Lord, if there is one principle which is embodied in the British constitution and in the British law it is that no man shall be deprived of his liberty and freedom, without a proper judical trial. I venture to doubt whether the Government of India have got the power to pass a measure of this character. My Lord, I will refer to section 65 of the Government of India Act, which says that—

The Governor General in Legislative Council has not, unless expressly so authorised by Act of Parliament power to make any law repealing or affecting any part of the unwritten laws or constitution of the United Kingdom of Great Britan and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom'.

"My Lord, the bond of allegiance, the strongest bond of allegiance between the subject and the Crown, is that the Crown protects him against arbitrary executive power and that the subject is entitled before he is deprived of his liberty and of his freedom, to be tried according to the recognised forms of law. My Lord,

I have no doubt that your Government have satisfied themselves that they have such power ; but speaking for myself, I am not free from doubt on that matter, and I should very much welcome any explanation on that point of law.

"Lastly, my Lord, I will beg you to realise the situation as it has been growing during the last few days and as it threatens to grow in future. My Lord, already there is a wave of indignation running through the country ; from one end to the other protest meetings are being held. Do not dismiss them with a wave of the hand and say, 'Oh ! well, all this will pass away.' My Lord, what was impossible in this country ten years back is no longer impossible now. Political feeling has been growing in this country ; political consciousness is much stronger to-day than it was ten years ago, and what the country was prepared to put up with ten years ago it is not prepared to put up with now. My Lord, you are going to throw the country into a whirlpool of agitation such as it has never witnessed before.....

The Hon'ble Mr. G. S. Khaparde humourously said that there is no rose without a thorn ; the rose is the Reforms but unfortunately the thorn has begun to prick before the rose blossomed. He quoted Lord Morley : "Reaction triumphs and mischief goes on," and showed how it is only too true in India.

He then raised the question as to whether the Government of India had power to pass a measure curtailing the liberty of the subject in the drastic manner proposed and quoted Sir John Simon in favour of his view. "The constitutional rights of the subject stand upon the authority of Parliament and the coronation oath. No legislature of a dependency possesses the right to infringe these rights without the express authority of the King in Parliament." There was a commission appointed presided over by Lord Loreburn before whom Sir Courtenay Ilbert was examined and he gave a list of fifteen enactments which according to him were not really speaking authorised by law, that is to say, fifteen *ultra vires* enactments ; but that list unfortunately was said to be confidential ; I tried to get it but I could not get hold of it and it still stands ; among them, however, it has come out that the Defence of India Act stood first. Your Excellency may remember that there was a case recently in Burma in which this point was raised ; the enactment said that no person will be allowed to bring a civil suit for anything done *bona fide* under the Act, as it is said also under this Bill. Then the person did bring a suit and it was rejected and he appealed to the Privy Council and the Privy Council allowed that appeal, and they were inclined to hold that the Government of India, this Hon'ble Council, could not pass a law taking away a subject's right to sue the Secretary of State. It comes to this that this point

is still open and has been argued and in the Burma case at any rate it has been so ruled. That being so, I humbly submit that this legislation is, so far as I can see, with due respect to the eminent jurist, the Law Member, who sits opposite to me, with due respect to him, I still believe that this argument is correct and when I read this passage I read it merely to give the authority of Sir John Simon. The practical part, however, is that the enactments are there and I go upon those enactments.

Regarding the findings of the Rowlatt Committee, he said, that the evidence on which they had to work was *exparte*, and so he could not rely on them. The only justification for the new legislation put forth was that the executive could not find sufficient evidence to deal with the 'anarchists.' "But whose business," said he, "was it to collect evidence ? I believe it is the business of the police or the Criminal Intelligence Department. Why don't they do it ? Well, it is said, they are unable to do it. I say that points to the inefficiency of the police ; it does not point to the inefficiency or defect of the law ; it points to nothing else. Why not ask them to do their work properly ? They say they cannot do it. Why can't they ? In England they do it ; they do not require these laws in England to unearth these conspiracies ; they do not require these very unusual laws. Why do they want these laws here to unearth them ? It is like the analogy which was put by an Hon'ble Member here 'Lower the standard of the examination because my son cannot pass now.' 'My police cannot collect evidence ; kindly make the law more rigorous and relax the rules of evidence' That is not the kind of argument that appeals to me, and I believe it will not appeal to anybody here."

Then he referred to the great alarm felt all over the country in view of the present measure and to the feeling generally prevalent that the bill if passed will make political discussions impossible, as in the days of the *swadeshi* movement in Bengal and the reign of terror following it. "A living body does not tolerate a foreign substance," said he, "and so Jurisprudence does not tolerate a wrong principle being introduced. A living body will throw off any outside matter, so Jurisprudence will not tolerate this principle of the personal liberty being placed at the mercy of the Executive and being taken out of the jurisdiction of the Courts. This tendency of of the principle of liberty being curbed by the executive authority would lead to a number of principles being violated as was pointed out by Mr Malaviya. Similarly, many difficulties will arise. We should stick to the good old principles which have endured for centuries.

The Hon'ble Mr Shafi said that on a careful analysis of the Rowlatt Report what we find is this :—The revolutionary movement

came into being under certain circumstances which are connected with certain years in the past. Certain measures which have been taken since the outbreak of the war have resulted in putting an end, for the time being, to the crimes and outrages committed previously. It may be that hereafter when conditions which existed previous to the war are restored, there may be a recrudescence of these outrages and crimes. We are not in a position to say anything one way or the other. But we are not in possession of evidence showing that the revolutionary movement has been absolutely extinguished, and it is on that supposition that we report to the Government what we think ought to be done in case there is evidence of a recrudescence of those crimes. Looking at these passages as a lawyer, it seems to me that their conclusion amounts to this, that should the time be reached when special legislation such as adopted during the course of the war which has resulted in putting an end to these outrages and crimes for the time being becomes necessary, we recommend the following measures which we suggest should be adopted. Now, my Lord, these paragraphs were written very nearly one year ago. Since then India's steadfast loyalty to the British Crown, her deep-rooted attachment to the British Empire, has been vindicated in a manner beyond all praise. No outrages or crimes of the kind with which the Rowlatt Commitee dealt in their report have occurred during this one year. And when we bear in mind the fact that even the very introduction of these Bills into this Council has created an amount of nervousness, alarm and agitation in the country which is evidenced by meetings that are being held all over the country, it seems to me, my Lord, that I should be failing in the duty which I, as a nominated Member, owe to your Excellency's Government if I were not, under these circumstances, to give what I believe to be true and faithful advice to your Excellency's Government. And my advice is this, adopt the course suggested to you by my friend the Hon'ble Mr. Surendra Nath Banerjea. What does that course amout to? It amounts to this, that the Select Commitee shall report to this Council six weeks after the passing of the Reforms Act in Parliament, on the Bills which have been introduced in Council to-day. If by that time there is any evidence of the recrudescence of these crimes and outrages, of the existence of this revolutionary movement in India, no one will suport the Government more strongly than I. And I am perfectly certain that at least a majority of the Hon'ble Members of this Council will then, because of the existence of this nefarious movement, give their whole-hearted support to Government in any measure, to these very Bills, if necessary, which may be required to meet the new situation.

The Hon'ble Sir George Lowndes refering to a question

asked whether, as a Government, we desire to pay no attention to the opinion of non-official Members of this Council." gave a very characteristic reply. He said :—The answer can only be that we have every desire to do so ; but if we are asked to surrender our own judgment, maturely and carefully come to, on a very difficult question of policy, it is impossible for us to do so even to the unanimous opinion of non-official Members, who are not in the position of responsibility in which the Government is." He continued :—

"My Lord. one fact at all events has emerged from this debate. Hon'ble Members in this Council have admitted on all sides that the facts as found by this Commission are proved ; no one has attempted in this Council to deny the existence of anarchical revolutionary conspiracies and agitators in India. I say it is impossible for us to agree that a further power of repression is not a necessary weapon in the hands of an efficient Government. Hon'ble Members do not dispute the facts ; they only dispute the conclusions, as deductions from the facts, to which the Commission have come. My Lord, we brought out, we created a Commision of the highest possible character, we asked an English Judge of eminence and reputation as a criminal lawyer,to come out here and advise us ; they have advised us and we, as a Government, are bound to accept their recommendations. Surely we should stultify ourselves if we, did not. And what have we against it ? Hon'ble Members here, legal practitioners of great eminence, no doubt, in local affairs get up and tell us that they do not agree with the conclusions of the Commission. To which are we to turn ? The Commission consisted of an English Judge, sitting with Indian Judges of long experience and great weight, with a non-official Indian Member as well upon it, and their recommendations were unanimous. Can we as a responsible Government refuse to follow them ? Can we as a reponsible Government accept as conclusive my Hon'ble friend, Pandit Mandan Mohan Malaviya's statement that he does not agree with their recommendations ? Which are we to turn to ? Which are we to take ? Can any reasonable man doubt ? Well, we have made our choice, and we think as a Government we have made the right choice and the only choice that is possible to us. The position to my mind irresistibly suggests the case of a man who is admittedly sick and who has tried the local doctors and is not satisfied with their opinion ; he brings out specialist from Europe to examine his case and associates with that specialist all the leading doctors of the place, and then it is proposed that he should not take their advice. Now, in the ordinary things of life do any of us act like that ? Would any of us resist an opinion of that kind ? The committee of eminent doctors advise a nauseous pill ; the friends of the patient say :—"No, do not take it ; try

sugar and water. The specialists advise an operation. The friends of the patient say 'No, put it oft for six months ; wait for something else to happen.' Is that the counsel which the ordinary man of the world will accept and follow ? I trow not. Surely, we as a Government are only acting on the lines of common-sense in accepting the best opinion we can get, which is emphatic in recommending this legislation. In the first place, we have a remedy proposed and we find it disputed in this Council whether the remedy proposed will be of any use. Some Hon'ble Members have said 'that it will be useless ; that it will not effect what we desire ; that we shall not be able by these means to stamp out the anarchist conspiracy ; that we shall only make it worse.' Here I am glad to see at all events that we have a very definite difference of opinion among the non-official Members themselves. I remember yesterday my Hon'ble friend, Mr. Jinnah, saying frankly and with the weight of his own experience behind him, ' I do not deny that there are these conspiracies and that you can get rid of them by the means you propose ; I admit you can do so, but you can do it better in another way.' Other Members say 'that is not so ; there is obviously a division of opinion on the point. But what practical remedy for this state of things which is now admitted to exist in India is put forward by any non-official Member of this Council ? We have heard the facts stated by Sir Verney Lovett, who knows them probably better than most of us, and what remedy has been sugested for them. I have heard my Hon'ble friend, Mr. Sitanath Ray, recounting experience that have come very near to himself, and what remedy does he propose ? What is the practical remedy proposed in this Couucil ? Well, we have two ; let me deal first with the no doubt practical suggestion in a way of my friend, Mr. Surendranath Banerjee. He says, ' You have got powers under the Defence of India Act which will last some time yet. Use them. After that pass an ordinace to the same effect and use it for six months. Thirdly, you have got on the permanent Statute-book Regulation III of 1818. Use that.' Well, if I may take that in any sense as a mandate from Members of this Coucil, it is a mandate for repressive legislation of a far worse description than what we are now proposing.

"This Act does not go nearly so far as the Defence of India Act, it is surely a far milder measure than Regulation III of 1818 Therefore, I say that the constructive policy that has been put forward by my Hon'ble friend to my right, Mr. Surendranath Banerjee, and which has been backed by a certain number of Members of the Council is a far more repressive one than the measure which has been condemned in the Council to-day.

"Then what is the alternative policy that we have heard from

nine-tenths of the speakers in this Council ? It is the policy which is summed up in the Asquithian 'wait and see'. Well, my Lord, we do propose as a Government to wait and see, but we propose before we start on the period of waiting to arm ourselves, in case it is necessary to use our powers again. Let me again take a homely illustration of what I mean. A burglar has broken into your house and has robbed you, and you think he is coming again, or at all events, you think he may come again. If you wait behind the door for him, do you wait without a weapon in your hands, or do you before he comes arm yourself and wait for him armed ? This is all we propose to do. Many Hon'ble Members have spoken as if the provisions which are to be enacted by this Bill were to be brought into force in the whole of India immediately. Surely, they cannot have studied the Bill ; the whole point is that Government are to be armed with powers which can be called into operation if the burglar comes again. Then as to the policy of what I have called 'sugar' of 'wait and see'; 'try the effect of the Reforms'. If a snake has stung your son and perhaps killed him do you try and charm the snake, do you make him an offering and ask him not to do it again, do you kill the snake ? We are arming ourselves with powers to deal with a case of that kind, and surely that is what every prudent man would do in the ordinary walk of life.

"Then, again, I venture to say that in this debate there has been a large amount of exaggeration with regard to the effect of this Bill ; a typical instance of this occurred in the speech of my Hon'ble friend opposite, Mr. Chanda, when he spoke of the 'untold miseries', I believe those were his words, —the 'untold miseries' that this Bill will bring to the people of India. Well, it seems to me that that is a great exaggeration and for all the weight with which my Hon'ble friend spoke, I have yet to learn that the pulse of India is in' Assam. Then my Hon'ble friend Mr. Bannerjea talked of innocent millions suffering for the sins of a few hundred, —the Hon'ble Mr. Jinnah said a few thousand. Here it was, I venture to think, his heart that led him away and not his head. We had one form of argument which really was, put into plain language, the threat of agitation. That is an argument to which no reasonable Government can give way. I venture to think that the agitation in India will be exactly what the politicians choose to make it, Then lastly, we were told, though I think I have dealt with the point before, we were told that the measure will be useless. It is admitted that something must be done, but nothing coming within the realm of practical politics has been suggested by our opponents.

" Their have been other contentions raised which I should like to deal with as a legal member of this Council ; they are possibly not so material to this discussion as they would be when discuss-

ing the details of the Bill, but as they have been raised, I should like to answer them to the best of my ability. The argument has been put forward that we have no power to legislate as we propose to do by this Bill. It was brought into being by Mr. Chanda and was taken up by the Hon'ble Pandit Madan Mohan Malaviya yesterday. He called for one of the Government of India and told us he would elaborate the argument later, but went no further, and when the Council rose I did not know on what the argument was based.

"Dr. Sapru, my Hon'ble and learned lawyer friend, took up the offensive and carried it a little further, but it waited for the courage and ingenuity of my Hon'ble friend Mr. Khaparde, to bring the babe out of its swaddling clothes into the light of day. Then when was it? I hoped to hear something new and interesting. It was the old argument that was raised half a century ago in Calcutta, and which has been revived from time to time; it began in the very well-known case of Amir Khan in 1869 or 1870 and received no acceptance then. It was raised a quarter of a century ago in Bombay and met with the same fate; it has been raised recently in Patna, and has again met with the same fate. It is the old argument that you are touching the allegiance of the subject by interfering with the right of liberty. It is the old argument which has been raised for half a century and has never yet found any supporter on the judicial Bench of this country. I do not propose to deal with it at any length. Let me read a few words only from the most recent judgment of an eminent judge in Calcutta, Mr, Chaudhuri :--

"The Indian Legislature both before and after the passing of the Indian Councils Act, 1861, has from time to time passed similar enactments authorising the privation of liberty in certain circumstances, and no instance has been cited to me in which such acts have been held to be *ultra vires* or in which any of the above arguments' (these are the arguments which the Hon'ble Mr. Khaparde has addressed to us) 'which have been repeated from time to time have ever been accepted as correct'. A similar point, I may note, was raised in England as to the power to restrain the liberty of British subjects and was carried to the House of Lords. My Hon'ble friend Mr. Khaparde read to us from a certain petition before the Privy Council. I know nothing of its contents. I only know that the petition was dismissed, and therefore it is not an unfair assumption that in the Privy Council too this argument found no favour. Is it, under these circumstances, wonderful that I, so far as I am the legal adviser of your Excellency's Government, have declined to suggest that there is any lack of power in the Government of India to legislate to this effect? Remember, that this argument could

have been addressed and was addressed to the Courts after the Defence of India Act was in operation. We have had all these years of the war in which the ingenuity of the lawyers has been engaged in trying to attack the powers exercised under the Defence of India Act We had two very big cases in the High Court at Patna not very long ago in which, as I say all the ingenuity of lawyer from Calcutta and Patna was employed to try and make the Act of no effect. And these are the arguments upon which my Hon'ble friend Mr. Khaparde says that I ought not to have accepted the position that we have power to legislate. When I interrupted my Hon'ble friend the Pandit yesterday it was to say that in my opinion there was not the slightest shadow of a doubt as to our power of legislating in this matter, and I say the same again now.

"Then considerable point was made by more than one speaker with regard to the provision in the Bill as to the admission of evidence which it was said was contrary to the existing law, and with that I quite agree. My Hon'ble friend Mr. Jinnah argued that we should then have a trial within a trial, in order to ascertain whether the particular person whose evidence was being adduced had been spirited away in the interesting accused. My Hon'ble friend suggested that this was a great blot upon the clause. I do not think I have misrepresented his argument. I think my Hon'ble friend forgot that possibly it was an unwise thing to argue this in an assembly which contains so many lawyers, as we already have exactly the same inquiry, the same trial within a trial.....

The Hon'ble Mr. M. A. Jinnah :—"Under section 33 a statement is only allowed subject to certain provisions which I should ask you to read"

The Hon'ble Sir George Lowndes :—"I do not think my Hon'ble friend quite understands me. This clause, of course goes a great deal further than section 33. Under section 33 of the Evidence Act. we all know that the evidence of a witness which cannot be produced is only admissible provided among other things opportunity has been given to cross-examine him: all that I am dealing with however is the argument which my Hon'ble friend Mr. Jinnah rather unwisely, as I thought, elaborated yesterday that the real objection to this clause of the Bill was that you would have a 'trial within a trial' in order to see whether the man had been actually spirited away. All that I am suggesting to him is that we have exactly the same possibility under section 33 of the Evidence Act. He obviously forgets the provisions of section 33. The section deals with the relevancy of certain evidence for proving in subsequent proceedings the truth of the facts stated therein, *i.e.*, when the witness is dead or cannot be found, or is incapable of giving evidence or is kept out of the way by the adverse party. This is

the passage in the section to which I referred. Here you have exactly the same 'trial within a trial' in order to know whether he has been kept out of the way by the adverse party. I am only meeting the argument that has been put forward. I am not dealing with anything else. Whether it is desirable to have such a provision in this Bill may be another matter, but the particular objection taken to it is of little weight if that is already in the law under section 33.

"Another point that was made by several Hon'ble Members and which has been emphasised by such an eminent lawyer as my Hon'ble friend the Pandit was that by this Bill we were taking away the birth-right of every man in taking away the right of appeal to the High Court which is part of the charter of liberty. I am not suggesting that these are his own words, but that is the trend of his argument. But does my Hon'ble friend and those who follow the same line of argument forget that until a very few years ago there was no right of appeal whatsoever in any criminal case in England? It is only a very modern innovation in the English law which has allowed a criminal the right of appeal.....

The Hon'ble Pandit Madan Mohan Malaviya:—"Have you any trial by jury?"

The Hon'ble Sir George Lowndes:—"In many cases in India we have a trial by jury."

The Hon'ble Pandit Madan Mohan Malaviya:—Give us that and we are quite content.

The Hon'ble Sir George Lowndes:—"It is not merely going back to the English practice. I would remind my Hon'ble lawyer friends of what the law in India is. There is no appeal in a criminal case in India where the case has been tried in the High Court in a criminal Sessions. There is no appeal then, and why? Why have we adopted in India from very early times the right of appeal in criminal cases from the district Courts, from mofussil Judges, but not where the case is tried in the sessions of the High Court?

The Hon'ble Pandit Madan Mohan Malaviya:—" Is there not always a jury in the High Court?

The Hon'ble Sir George Lowndes:—" We have juries in the district just as much. But their is no appeal from a criminal trial in the High Court because of the higher status of the Judges; that I say is the difference. Here we are providing a tribunal to deal with these cases consisting of three High Court Judges, and therefore I say that there is no necessity for a right of appeal and that the taking away of the right of appeal is not to deny.....

The Hon'ble Mr. Kamini Kumar Chandra :—"Is it not practicable to appeal from decisions of a High Court on a certificate by the Advocate-General or on a point of law reserved ?"

The Hon'ble Sir George Lowndes :—I am afraid my Hon'ble friend is not quite correct. He will, no doubt, remember clause 25 of the Letters Patent. It reads thus. I am reading from the Calcutta one :—

of 'And we do further ordain that there shall be no appeal to the High Court or judicature at Fort William in Bengal from any sentence or order passed made in any criminal trial before the Courts of original criminal jurisdiction which may be constituted by one or more Judges of the said High Court. But it shall be at the discretion of any such Court to reserve any point or points of law, for the opinion of the said High Court.

"I am, therefore, correct in saying that there is no appeal where a trial is in the High Court, and here the trial that we are providing for is before three High Court Judges.

"Well, I do not desire to follow all the arguments that have been addressed to this Council to-day nor to go into all their ramifications. The various points that have been raised will be dealt with by the Select Committee which, I hope, will consider this Bill very sympathetically. I think it right to say, speaking for myself as a lawyer who has practised for some years under the English system of law, that I have a great dislike to legislation of this kind, and I would not support it as I do whole-heartedly now, unless I was absolutely satisfied myself that it is necessary. I dislike it, but I recognise the necessity for it. I, therefore, support it whole-heartedly as being necessary for the conditions that we have in India at the present time. At the same time I should like Hon'ble Members to know that, when the Bill goes to the Select Committee, any suggestions that they may have to make for mitigating the severity of it or doing away with possibilities of oppression and so on, will meet with sympathetic response from my Hon'ble Colleague who is in charge of the Bill, and it is there that we may be able to do a great deal to meet the difficulties which many Hon'ble Members have dealt with."

The Hon'ble Rao Bahadur B. N. Sarma after referring to the injunction of the Law Member that they should be lead not by emotions but by the intellect in deciding the issue, said that he will try to appeal to the intellect alone.....

He said that the issue is whether the people should submit to the rule of the Executive pure and simple, without the aid of the judiciary and continued ; "has the Government realised the full significance of their admission in bringing forward this legislation at the present moment ? To my mind they have confessed that after a century of British rule, the rule of the bureaucracy has brought

India to such a state—progressive if you please—that they find that the judicial administration, their own creation, hampers them to such an extent that they would have to discard it if they are to rule India at all peacefully. That is the confession, a confession of inefficiency, a confession of absolute failure, the logical result the admission of the need for this legislation if the Government should press for it. Well, people have been saying that to a very large extent and therefore pressing for reforms, have been asking the Government to take the people into active co-operation as government on the old lines is absolutely impossible. Now the answer of the Government to that may be : we have realised that and that is the reason why we have brought forward a scheme of reforms which would give self-government in course of time to India, but mean-while we find it absolutely necessary to arm ourselves with these powers during the transition stage. It is true that the present system of government is a failure, that we cannot rule on these lines, but we at the same time have to arm ourselves and go back upon our position to some extent and treat the whole of India or portions of India as if they were Agency tracts before the self-government scheme is in working order. My submission is that the policy of the Government for which something has to be said, that the bitter pill which has to be administered to the patient had better be administered prior to the sugar pill, and that the patient would appreciate the sugar pill a little more if the bitter pill were administered first, that repressive legislation should be introduced first and the liberal legislation later on, is unsound. What we have to ascertain is whether the bitter pill is a real medicine, whether it may not exasperate and kill the patient, whether it is worth the while of the patient to live an inglorious life, deprived of all security of person and liberty in the hope that on a future day there might be reforms. The next question is as to whether this bitter pill is likely to attain the end which the Government has in view. The Hon'ble Sir George Lowndes and the Hon'ble Sir William Vincent, the Home Member, have practically accepted the dictum in the Report of the Rowlatt Committe that even in 1914, prior to the theft of Messrs Rodda's arms, it was felt that the forces of law and order had in this respect been vanquished, and that the sedition party was too strong for the Government. Is that a correct statement of fact ? My Lord, I submit that it is not and I beg leave to dispute it ; I take the liberty to say that the police of Bengal as of other provinces have been as efficient, perhaps much more efficient, in tracking this particular kind of crime than they have been in grappling with other serious forms of crime, and if there is any inefficiency, if there is any inability to cope with the situation, it is not to be noticed in this particular case alone, but it is to be found all

along in the case of grave crime. I beg permission to quote only a few facts to show that I am right that in the matter of the sedition trials the Courts have been a little more lenient towards the prosecution than they have been in the case of other crimes, and that the percentage of convictions has been much higher than in the case of murders and dacoities, and therefore it is not a correct fact to say that the forces of law and order have been found inadequate in this particular instance. If you say that they have been all along inadequate in dealing with grave crime, I have no answer but to say, 'yes,' but if the Government think that they have been adequate in dealing 'with grave crime but that in this particular instance alone they have failed, I beg to join issue with them. What do you find? The Committee say that in the ten attempts to strike at revolutionary conspiracies, 192 persons were involved in the prosecutions launched, and that 63 were convicted, that is a percentage of about 33. Now, my Lord, what has been the fate of the cases which have been brought to the Courts for murder and dacoity. You find that in Bengal during the year 1912, 420 reported cases of murders and only 39 convictions, which is 9 per cent. You find in 1915, 514 reported cases and 71 convictions, about 11 per cent., in 1917, 425 and 60 convictions. And if you take the number of persons, you will find the proportion would be nearly the same.

"Take dacoities again. You find there were in 1912, 249 dacoities and you have had only 19 convictions or 7 per cent. and you had in 1915, 769 dacoities and 102 convictions as against 24 or so in the case of sedition. The police in other provinces have been much more efficient than the Bengal police in the matter of tackling grave crime. Therefore, my Lord, having such an inefficient machinery in your hands, can the Government complain that the people have not loyally co-operated in dealing with this sort of grave crime. It is not the fault of the people that they have not succeded in enabling the Government to secure a larger number of convictions. It is the fault of the adminstrative machinery. It is the mutual adulation society in which we have been living, one department supporting another, each department praissing its own men and the others accepting it, that is responsible for this state of things. Therefore, if you ask for a remedy, the remedy is to make the police in general, and the Bengal police in particular, more efficient. Because the police, having search powers, having so many vast powers entrusted to them, had not been able to discover anything until seven or eight years after the rebels openly proclaimed themselves, you say to us, 'we are inefficient, we have such a hopeless machinary, therefore arm us with powers depriving the people

of the security they enjoy under the protection of a judicial administration.'

"Let me take up another argument which was advanced by the Rowlatt Committee that the convictions have not been able to repress crime. Have they repressed crime in the case of murder? Have they repressed crime in the case of dacoity? We find that the number of crimes has been increasing year after year through out India. This state of things is not confined to the case of sedition alone; it is to be found in the case of all grave crime. 3,343 reported murders in 1903 and 4,770 in 1915 with 1,103 and 1,401 convictions and 2,339 and 3,738 dacoities with 443 and 733 convictions. I shall not weary the Council with further figures.

"Your Lordship, the question has been asked: what is your practical suggestion? My practical suggestion is this. Just as you stamped out the Thugs by a special department, if need be, create a special department and stamp out this crime. If a province is so beggarly as not to be able to find money for it, take the money from the other provinces, if necessary, in order to be able to finance that province; but in the name of common sense do not deprive the people of other provinces, of their rights and liberties simply because you find one administration unable to cope with crime of a particular character.

I cannot but feel, my Lord, that, notwithstanding the safeguarding words that it is only in the case of a seditious movement being connected with certain grave crimes that this machinary is to be employed, notwithstanding the employment of these words, an inefficient police would only have to say 'so and so, who is a political preacher, has preached here and dacoities have gone up,' to invoke the provisions of this Act, and we find, as a matter of fact, ordinary Hindu-Muhammadan disturbances being tried by special tribunals under the Defence of India Act. That procedure may be followed hereafter, the name of sedition being conveniently employed. Therefore, I would ask that those essential facts on which the Report has been founded should not be treated as proved or employed as arguments in support of this legislation.

"Then my Lord, the question was asked what else would you suggest? What are the constructive proposals you have? Well, one of the constructive proposals we have always suggested is to give us the power. If the Government finds that they cannot manage law and order, let them put them under the control of a representative assembly, and I am morrally certain that they will be able to repress this sort of crime much sooner than may be imagined. People will know where to hunt for these men, they will

devise the necessary machinary. But, my Lord, may I ask, have the people of that particular locality where this crime has been so prevalent been quartered with any punitive police in the past? Has the Government ever tried the experiment between 1906 and 1918 of asking the people where these disturbances occured to pay for the police and to co-operate with the police in repressing the crime? What practical steps have been taken by the Government beyond the strengthening of the Criminal Investigation Department, working in secret to tackle this sort of crime, that they should come forward and ask this assembly to enact that the people should submit to a sacrifice of their fundamental rights of citizenship? After all, what does the Rowlatt Committee itself say? The Rowlatt Comittee says that this sort of crime is not indigenous to any province, that it has been accidentally imported into the Punjab, and that even in Bengal there are so very few people who are given to it compared with the total population, that there is no real danger of its spreading. And the proof of there being no real danger is that even before the Defence of India Act was in force rigidly in Bengal, the government have during the most troublous times of war been able to enforce all their measures, that the people have been loyally co-operating with the Government, and that although there was sedition it was never a hindrance to peaceful administration during the most troublous times of war. I ask, therefore, if the people have been so loyal and if they have co-operated with the authorities so loyally during the most troublous times of war, is there a case made out for asking the Legislative Council to equip the Government with these powers in times of peace? Well, it has been said these powers are not going to be used immediately; they will be on the Statute book so that people may be told, 'if you employ terroristic methods we will also employ terroristic methods.' It comes to that. If the Executive are going to shut up any man without any inquiry, without allowing him a chance of proving his innocence in a law Court, it means that that the Government are prepared to ask this council to equip them with terroristic weapons in order to cope with terrorism. I ask, in this peaceful time, would it be right for the ligislature to put on the permanent Statute-book a law giving the executive Government powers to terrorise in the manner they ask that they should he permitted to do? I humbly submit, no. Is there any difficulty in the Government of India passing legislation at a moment's notice? That question has not been answered. It is said, why should we not arm ourselves with power before hand? I say it is dangerous, because a bureaucracy always loves power, loves to arm itself with power and abuses that power, if it is armed, whereas if it has to make out a case on a specific occasion, it will

see to it that it does not come up unless it has a very good case. That is one reason why, although we realise that the Government can at a moment's notice or even without notice pass an Ordinance or pass law—and the Government of India are not going to weaken themselves in any way—we object to arming them in advance because the natural tendency is to accumulate more power in the hands of the bureaucracy, and we wish to check it. My Lord, has not that tendency been exhibited in this particular case? What are the powers which the ingenuity and the wit of man, of lawyers and of thorough-bred bureaucrats could devise which have not been given already? What are the measures which are not already on the Statute-book even if this Bill is not passed into law, which can be devised, consistently with resort to judicial tribunals? You have passed a law prohibiting any public meetings being held when you wish it; you have taken power to search for any seditious article anywhere; you have taken power to suppress the Press, to confiscate the Press. You have taken power about the burden of proof being laid upon persons who are found in possession of explosives. You can prevent any press from publishing seditious matter; you can confiscate the press and prevent the Post Office from being employed for these purposes. You have got all these powers in your hands. The only drawback the Executive sees is that there might be some shadow of supervision by the judicial tribunals. Hitherto the bureaucracy have not been able to resist the invasion of the judicial tribunals into their preserves in every matter, although the Clacutta High Court has admitted that their powers are practically nugatory. Apart from that, you have accepted that in some instances there might be an appeal to the law Courts. You have got in your Statute-book practically all that you ask for in this measure subject to that one reservation. Therefore I ask, what is the necessity for this measure except that you are mortally afraid of a resort to the law Courts?

My Lord, you are driving the people to desperation. You are snapping the tie—unconsciously and without knowing it—you are snapping the only tie that makes the people submit willingly, nay cheerfully, to your bureaucratic rule, by saying 'We shall suspend the administration of justice when it pleases us to do so.' .....

Then, with regard to the repressive measures being taken up before the Reforms are taken up, I say one word. Government has succeeded in quelling prussianism. Do not allow the people for goodness' sake to say that in quelling prussianism abroad you have come to establish prussianism in the country. That is what the people are saying. There is a feeling that Germany has been conquered for the benefit of mankind, that freedom and liberty are in the air, that even nationalities much worse placed than we

are hoping and rightly to get governments of their own and that we also may have our fair share At such a time of hope, when even anarchists abandon their methods because they see all hope of succour from Germany or from any other country is shut out from them, even they see how futile it will be to endeavour to subvert the British Government ; at such a time as this, I pray that you should strengthen the moderate element. What will be the result if the representations of all the non-officials being rejected, as possibly will be the case ? These anarchists would say 'Now, look here, you have been talking all along about moderates and extremists ; what have you moderates succeded in getting from Government ? You have been utilised for certain purposes of Government, but when Government has set its mind on any object there is no use in your trying.' Do not drive moderates into that humiliating position. Nothing is lost when you have got the power to enforce your will at any moment by agreeing to a little delay as has been asked for. Let us not imagine that the Executive would not always abuse its power. I remember very well in my early days when I entered the Madras Legislative Council that a petty quarrel, not of a very edifying kind, in which a European was involved, led to an assault and the military were called in because there was political fervour previously in and about the place. There is likely to be a mistake of cause and effect, and unrest will be created by our anticipating it. I therefore pray that that should not be done. If you have to do anything by way of taking legislative powers create permanent judicial tribunals, even when you want to act under the preventive sections of the Code. Let legislation be temporary, but to think, to dream of putting this on the permanent Statute-book seems to be madness. We ask for co-operation ; you ask for co-operation ; we reluctantly oppose this Bill because we love the British connection ; we realise that it is only by the prolongation, if possible for ever, of the British connection between the two countries that India's destiny will be achieved. It is because we feel that our hopes are centred in this permanent union that we ask that you should listen to our advice ; it is because we are desirous of safe-guarding the elementary rights of citizenship, we do not wish to condemn the bureaucracy of so much inefficiency of which they are unconsciously accusing themselves ; it is because of this that you are playing into the hands of the anarchists, we are not satisfied that this measure is necessary,and we do not wish to render the administration more inefficient than it is : it is because it is not competent to the Indian legislature to pass this law, and we do not wish to create unrest by anticipating it ; it is because there is the possibility of specific legislation being undertaken to deal with any particular individuals who may be undesirables and who may have to be released when the Defence of India Act is repealed, if the Regula-

tion of 1818 is felt to be inapplicable, that we ask the Government to pause and to listen to our advice."

The Hon'ble Mr. Srinivasa Sastri said :—It is not in accordance with the practice of other Governments to bring in repressive legislation of this nature long before its necessity has become clear. The Home Member rather overstated his case when he told the Council that the Government must not be left naked and defenceless when the burglar had made his appearance. The Government cannot be naked and defenceless, it is avowedly in full possession of the powers that it needs to put down wrong of every kind ; that will continue for many months yet and if it pleases the Viceroy for another long year yet it will remain in possession of all the needed powers. To say that the necessity has now come and that the Members of this Legislative Council should not leave the Government in a position of defencelessness is certainly in my opinion to over-state the case. Then the Hon'ble the Home Member also relied on the recommendations of the Rowlatt Committee, but I am unable to find in the recommendations of the Rowlatt Commitee any mandate or any strong counsel to the effect that any of the measures proposed must be permanent, that they must be worked into the Penal Code, or into the Criminal Procedure Code of the land. Their character as emergency legislation must be recognised. I think the course taken by the Government in recommending to this Council permanent legislation involving alterations in the Penal Code and the Criminal Procedure Code goes beyond the recommendations of the Rowlatt Committee, and has necessarily evoked a great deal of alarm. I conceive, your Excellency, that it was hardly necessary to frighten the country by saying that the Government must be armed with powers of a permanent character. I very much wish indeed that the Government had found it possible in the first instance before raising a storm to say that they would be content with these powers being placed in their hands for a temporary period. When in the course of time the Defence of India Act expired or the Defence of India Act extended by the Viceroy expired, it was still necessary to have these powers, it was open to the Government to call a special Session of the Legislative Council, and I do not think that when the Government take such a startling step as to call a sudden session of the necessary powers to meet with a dangerous seditious conspiracy, any one in the country will raise his voice against it. Now everything seems to be alright, wrong-doing is under full control, and Government can say that in the exercise of the powers they have secured peace and tranquility. To say now, long before the necessity may arise that we want to equip ourselves permanently with weapons of

repression—that word has been used by Government Members themselves and I have no scruple therefore to use it—is in my opinion simply to set the country in an unnecessary state of excitement.

"Then we are told that after all these powers are not placed in the hands of small officials. The small officials come in only after the Viceroy has satisfied himself that in certain area in the country crime of a very deeprooted and widespread nature is prevalent or is likely to become prevalent. Now I take leave respectfully to dissent from the implications of this proposition. The implications of this proposition go very deep indeed. We are asked to supplant the experience of civilized Governments. If every word that Hon'ble Sir George Lowndes told us were to have its due weight, if what he said were to be carried to its logical conclusion, if in every case where the Executive were armed with arbitrary powers they used them only justly, properly and no more than was adequate to the occasion, if in every case of mis-exercise they could be brought to book, if there was provision for publicity, then indeed there is apparently no reason why in the permanent law of England, in the permanent law of France and in the permanent law of America there should not be legislation similar to that which is proposed for this country. After all, it is good to to have these powers. No Government will ever abuse its power. The Executive, wherever they have the power, always use it only when it is necessary. If that is so, if there is no fallibility in the Executive, if all high officials charged with responsible power never erred, then there is no limit to the placing of arbitrary power in the hands of any Executive which a Legislative Council may be called upon to sanction. That, however, is not the way in which responsible people look at things. They ask, are these necessary? I was wondering how the Hon'ble Sir George Lowndes himself having made these rather sweeping statements came later on to say. 'I myself as a Britisher hate this kind of thing; repression is distasteful to me.' I heard the Hon'ble Sir William Vincent also say, 'after all, these things are bad.' Why should they be bad? We are bidden always to trust the Executive, to believe that they will never do wrong, the law will always be used considerately and only in the interests of the poor and the helpless; why should it be wrong then, why should we scruple at all to leave all power in the hands of the Executive, to roll up our Courts of law, to suspend or lay low your Legislative Councils altogether? That is not the way that we should look at things. We think that the Executive are apt to make mistakes, and I think they do make mistakes. We know, my Lord, Viceroys who have held, who are holding and who will hold power, are under no delusion that the Local Governments may not yield to

the public opinion of their community, may not be hounded on by an infuriated press to take in hand a policy of severity, always no doubt with the best of intentions, always no doubt with a, feeling of horror and repugnance, always no doubt with a desire to stop everything the moment it should become unnecessary. But we know, my Lord, from bitter experience that these measures are put into force sooner than they become necessary ; that while they are put into force they are exercised more harshly than is necessary, and that they are dropped only with the utmost reluctance long after the exigencies that called them into existence have disappeared, long after enormous miseries and frightful hardships have been inflicted. We know that these things have happened, and it is because I take it every Engishman feels that these things may happen that he is obliged to say when he stands up in defence of a legislation of this kind, however strongly he may word it in one part of his speech, 'I certainly dislike these things ; they are objectionable on principle.' If they are objectionable on principle in one place, they are objectionable on principle in every place, and their application must be tested by the severest test and they must at every step be open to challenge. In England, my Lord, as I have read these things, whenever a repressive law is in force, every single exercise of it is at once openly challenged. A public inquiry is probably held. Anyhow a committee is appointed to take evidence. What happens in India ? A press law is passed. Ten years afterwards in the Supreme Legislative Council an inquiry to be conducted by a mixed commisson appointed by the Council is asked for, and your Excellency's Government come forward and say 'we will not appoint a committee. We will not face an inquiry into this affair." Now that kind of thing is not a circumstance which encourages us to go forward and place summary powers in the hands of the Executive, because we fear with some experience behind us, that you will not submit your actions to the scrutiny of the public as every exercise of arbitrary power should be submitted.

"Then we are told with almost pathetic simplicity quite worthy of a paternal Government. 'Why need the innocent man fear ? The honest man need not walk in fear of these repressive measures ; they are meant only to punish the wicked and they will be used only to punish the wicked ; let the virtuous men go-about as usual in the exercise of their work.' I wish that this idyllic picture were true in India or anywhere. Now, my Lord, a bad law passed is not always used against the bad. In times of panic to which all alien Governments are unfortunately far too liable, in times of panic, caused it may be by very slight incidents, I have known Governments lose their heads. I have known a reign of terror being brought about ; I have known the best, the noblest Indi-

dians, the highest characters amongst us, brought under suspicion, standing in hourly dread of the visitations of the Criminal Investigation Department. I remember in my own time; it is not a very long experience I have of these matters, but I can remember a very valued friend of mine, now alas no more, a saint amongst men, telling me with almost tears in his eyes, 'I have borne a good character all along, but I have recently become a suspect of the Criminal Investigation Department and my life is passed in bitternes and in sorrow.' Why? because Government started a policy of suspicion generally in the locality and when they sent their minions of the Criminal Investigation Department none, not the most trusted friends of Government, were safe. I can remember, my Lord, in the year 1908 when I went round organising district Congress Committees, such a blight had fallen on the Political world the Criminal Investigation Department had been so active, the repressive policy of Government had been so manifest, that it was impossible in many places to get people to come together to a public meeting. 'Oh no, not now, not now!' A gentleman high in office at that time and about to retire from service met me in the middle of the night on one occasion. I was quite surprised and he told me—'My dear fellow, I have been long- ing to see you these three or four days that you have been here, but this place swarms with spies and informers. I am nearing my pension and have many children, I do not wish to be mixed up with a member of the Servants of India Society to their knowledge.' It is all very well to say that the innocent are safe. I tell you, my Lord, when Government undertakes a repressive policy, the innocent are not safe. Men like me would not be considered innocent. The innocent man then is he who forswears politics, who takes no part in the public movements of the times; who retires into his house, mumbles his prayers, pays his taxes and salaams all the Government officials round. The man who inter- feres in politics, the man who goes about collecting money for any public purpose, the man who adresses a public meeting, then becomes a suspect. I am always on the border-land and I therefore, for personal reasons if for nothing else, undertake to say that the possession in the hands of the Executive of powers of this drastic nature will not hurt only the wicked. It will hurt the good as well as the bad, and there will be such a lowering of public spirit, there will be such a lowering of the political tone in the country, that all you talk of responsible government will be mere mockery. You may enlarge your Councils, you may devise wide electorates, but the men that will then fill your Councils will be toadies, timid men, and the bureaucracy, armed with these repressive powers, will reign unchecked under the outward forms of a democratic government. Well, we are all anxious to punish the

wicked.....The price even for the extinction of wickedness that is demanded then is far too high. Much better, it seems an ungracious thing to say, much better that a few rascals should walk abroad, than that the honest man should be obliged, for fear of the law of the land, to remain shut up in his house, to refrain from the activities which it is in his nature to indulge in, to abstain from all political and public work merely because there is a dreadful law in the land I was astonished to hear Sir Varney Lovat tell us that it is not enough to indulge in conventional regrets in this Council. I wonder very much whether he will agree to retain and repeat the word 'Conventional.' When Hon'ble Members here get up and reprobate wicked deeds, I take leave to say that they do not do it in a merely conventional manner. I take it that we all abhor wickedness as much as Sir Verney Lovatt or any member of the Rowlatt Committee does. May I turn back and say that the proposals made by the Government betray a somewhat callous disregard of liberty. ... ...

"Then, my Lord, the Hon'ble Sir William Vincent told us that those laws are intended only to purify politics. I have taken down his very words 'not the suppression but the purification of politics is our aim,' he said. Ah! if in this world good intentions always bore fruit it would be very well and this would be a splendid world to live in. The history of legislation, both social and political, is strewn with instances of miscarriage of excellent intentions. Laws intended to cure poverty have aggravated it, multiplied it; laws intended to cure crime may run very well in the same unhappy direction; and I take leave to say to the Hon'ble Sir William Vincent that the laws now placed before us which are aimed at purifying politics may come dangerously near suppressing them. You cannot place on the Statutebook such drastic legislation without putting into the hands of over-enthusiastic executive officers what I consider short cuts to administrative peace. As I said before, even peace in administration, valuable as it is, can be sought in wrong ways. You provide them with short cuts to administrative peace and there is no administration that is able to resist the temptation to run across these short cuts when the only royal road to peace is the right road, and the righteous road. Now anarchists, it is said, do not want reform. They spurn these political concessions. Oh! yes, there are two ways in which perhaps this expression is intended to be understood. It means in the first place that the crime with which we have now to deal in Bengal, the Punjab and elsewhere, is partly only political, and partly it has become ordinary. I much regret that, so far as I am able to judge of the matter that has been placed before us, there is very considerable truth in the observation. I do think, my Lord, that however this

unfortunate episode has begun, though it may have begun in pure political methods, part of it perhaps has now passed into what must be described as chronic crime. That is so, but I still think that a good part of it is political, and for political crime, while such repressive laws as may be necessary ought to be put in force, the principal remedy is still political amelioration. But perhaps there is another sense in which this has got to be understood. The anarchist does not want political reform. That is too true. But why? That is the thing we have got to understand. The anarchist is afraid that the friction that he wants in the land, that the excitement in which he continually wishes people to live, will die down if the ways of Government become conformable more and more to democratic ways. If responsible government is granted, if ameliorative measures of one kind or another are passed, it is possible that the people will lie quiet for a time and the anarchist will not find plenty of room for his work. He wants that in this country dissatisfaction and discontent must assume more and more aggravated forms. Quite so, but what is the reason for this abnormal state of things? The anarchist is a morbid creature; the revolutionary, the bomb-thrower, even where their motives are honest, that is to say, even where their motives are unselfish, are blind. In my opinion they dwell too much on the unfavourable aspect of things. They read contemporary affairs wrong, they read history wrong; they see no hand of righteousness anywhere. My Lord, political remedies do not satisfy them, and, because they want the final remedy of destruction, all these things seem wrong to them. But because the anarchist is in this unfortunate condition of mental derangement, are we to say, since these people are not going to be satisfied by political concessions, we will not think of them; we will only apply the rule of law to them? That is not the way, I think, that sound statesmanship should go about the business. We should offer them satisfying measures of political emancipation. But, after all, it is not these anarchists that have to be satisfied. It is the general atmosphere which feeds anarchy that we have got to cure; and, when the anarchist finds that he gets no sympathy anywhere, that he cannot propagate his wicked doctrines in a soil where there is contentment and political prosperity, he will naturally die, even if the long arm of the law does not get at him.

"There is one thing that I should like to say before I sit down. The Hon'ble Sir Verney Lovett quoted to us on more than one occasion words of Mr. Gokhale. Now it is very easy for me to quote Mr. Gokhale back again for the edification of the Hon'ble Sir Verney Lovett and the Members of the Council. We can all quote passages at each other; we can unearth classical quotations; we can ransack Greek, Latin and Sanskrit for passages of great pith and moment

and applicability to the present conditions. But what we have got to see is how far we are prepared to act upon the one side and upon the other up to the spirit of the teachings for which we are all striving.

"The Hon'ble Sir William Vincent said that we are now undergoing a test Oh ! yes.—.....

The Hon'ble Sir William Vincent :—"May I correct the Hon'ble Member ? What I said was that their attitude on this Bill would be regarded by many both in this country and outside it as a test of their capacity."

The Hon'ble Mr. Srinivasa Sastri :—"Yes, it would be by a few people."

The Hon'ble Sir William Vincent :—"By many."

The Honble Mr. Srinivasa Sastri :—"Not necessarily by the Hon'ble Sir William Vincent.....

The Hon'ble Sir William Vincent :—"No"

The Hon'ble Mr Srinivasa Sastri :—"As a test of our capacity to stand any measure of responsible governm ent, are the Members of this Council going to face the unpopularity, the odium, of passing a repressive measure which has become necessary ? That was the question asked. Now, my Lord, I am no member of the Indian Civil Service ; I have not been schooled in the stern discipline of that service ; I am perhaps too tender by nature. It may be that I and several others like me may be unable to face the storm of unpopularity, but I should like to say—and I am not ashamed of it—that we certainly do not think that the sign of strength, that the sure proof that you are a born administrator, consists in courting unpopularity and defying public opinion. I am not made that way. I do not think I lose by that. But at the same time when the stern call of duty comes, when the requirement of truth is laid on me, when the best interests of my country, as I understand them, require it, I am perfectly prepared to submit to unpopularity. If necessary, I am prepared to go through the fire of public odium. But it has got to be proved to me that it is necessary. I will not, for the mere wantonness of it—merely to demonstrate that I am fit to be in charge of a district or even of a division—court unpopularity for these reasons.

"Now, we have been subjected to many test. We have given our consent to many repressive laws by now—the Press Act, the Defence of India Act. During the war we were hourly on our trial. We have given 100 millions, we have given this, we have given that. The other day we were told that the gift of 45 millions

would also be a matter of test. We submitted to it. What test has been really applied to us to which we have not cheerfully submitted? I can hardly think of one. Bidden to bring the milk of a beast of prey, we have brought a jugful of milk of the tigress. Are you going to throw it aside and say, 'Bring the milk of the male tiger?' That is not fair. Yet, many people in England, testing us probably by this severe standard, may pronounce us not sound, not fit for responsible government. But I do hope, my Lord, that there will be two or three clear sighted, two or three shrewd people even in England at this time, to say that the Indian Civil Service, the administrators of India,—the Executive, are really on their test. They profess to be prepared in India for a very early beginning of responsible government, when they would be wiling not to impose, as they do, their will on the legislature but to take the will of the legislature and carry it out,—when they will be the instruments of the legislature and not its masters. Are they preparing for that time by carrying, in the teeth of the opposition, unanimous and unsparing of their Indian colleagues,—this measure through? Whom have you behind you now amongst Indians? The tragic story of India may be summed up in these words, that you have governed all these centuries in India in isolation, without having any responsible section of public opinion behind you. Now at this supreme hour, whom have you behind you? No section of public opinion supports you. The nominated members have not given their blessing to this Bill. The zamindar members have not given their blessing. The lawyer members will have none of it. The members of commerce will have none of it. And yet the Hon'ble Sir George Lowndes told us, 'We must carry this legislation through because we are satisfied that it is very right: we should have been glad of your help, but with our sense of responsibility we must go on even without your help, however much we would have liked it.' I admire the courage of the Hon'ble the Law Member. I admire the candour with which he said, 'We have the responsibility to-day: you have none of the responsibility.' We realise that position. We have none, my Lord, of the responsibility for this legislation, and I therefore refuse to believe when the case is put correctly before the public opinion that they will say, as the Hon'ble Sir William Vincent seemed to think some sections of the English public might, that we had responsibility and shirked it. We have none.

"Now there is only one more remark, my Lord, I must make and that in justice to the feeling in the country of which for the moment I am the spokes man, I do not think the Hon'ble the Law Member could have meant all that he said when he said that some of us were indulging in threats of agitation. I venture to

think that no one here who has spoken against the Bill indulged in anything which might truthfully be described as a threat of agitation. None of us, certainly none of the Moderates, I take leave to say, has power to go and stir up a violent agitation in the country. It is impossible. The agitation must be there already. The heart must be throbbing if any words that we use here can have a possible effect on the general political atmosphere. The agitation is there. I wish to assure my official colleagues that none of us has had a share yet in this business, but if our appeals fall flat, if the Bill goes through, I do not believe there is anyone here who would be doing his duty if he did not join the agitation. That is not a threat. I take leave to think that is by no means a threat. Anyhow I am the best judge of my own mind, and I do not indulge in any threat. I have yet borne no part in this agitation, but if everything goes wrong, if we are face to face with this legislation, how it is possible for me with the views that I hold to abstain from agitation, I for one cannot say."

The Hon'ble Pandit Madan Mohan Malaviya :—"My Lord, may I suggest that the Council do adjourn under rule 3 of the Rules of Business ?"

His Excellency the President :—"No, the Council will sit until this is finished."

The Hon'ble Mr. V. J. Patel :—"Your Excellency, I do not think it is necessary for me to detain the Council for more than a minute or two. So far as we non-official Members are concerned, we have made our position perfectly clear. We have with one voice made it clear to you that we are opposed to this measure. We have made it clear that the passage of this measure will put an end to all constitutional agitation in the country. We have also made it quite clear that the passage of this measure will affect the reception of the proposed reforms.

"We have also made it clear that the passage of the measure will, or is likely to, affect the satisfactory passage of the Reform Bill. We have left no stone unturned to convince your Excellency and your Excellency's Government that such a tremendous and unprecedented agitation will follow the passage of this Bill that perhaps it will be difficult for Government to meet the situation. In spite of that, if your Excellency's Government with the assistance of the official majority choose to pass the measure, the responsibility is yours. At the last Simla Session my Hon'ble friend, the Finance Member, told us that the responsibility for consenting to or refusing the contribution of 45 million pounds would rest with the non-official Members. May I say the responsibility for the passage of this Bill and the resulting consequences will lie with

official Members. My Hon'ble friend, Mr. Sastri, just now told us that we non-official Members in this Council have no responsibility, I wish he had realised that situation when he voted for the 45 millions."

The motion of Mr. Patet was put and the Council divided as follows :—

Ayes—22.

The Hon'ble Sir Gangadhar Chitnavis.
" Babu S. N. Banerjea
" Raja of Mahmudabad.
" Dr. T. B. Sapru.
" Pandit M. M. Malaviya.
" Mr. S. Sastri.
" Mr. B. N. Sarma.
" Mir Asad Ali, Khan Bahadur.
" Mr. V. J. Patel.
" Mr. M. A. Jinnah.
" Sir Fazulbhoy Currimbhoy.
" Rai Sitanath Ray Bahadur.
" Raja Sir Rampal Singh.
" Rai Krishna Sahay Bahadur.
" Raja of Kakina.
" Mr. Mazharul Haque.
" Khan Bahadur Mian Muhammad Shafi.
" Khan Zulfikar Ali Khan.
" Mr. G. S. Khaparde.
" Rai B. D. Shukul Bahadur.
" K. K. Chanda.
" Maung Bath Too.

Noes—35.

His Excellency the Commander-in-Chief.
The Hon'ble Sir Claude Hill.
" Sankaran Nair.
" Sir George Lowndes.
" Sir William Vincent.
" Sir James Meston.
" Sir Arthur Anderson.
Mr. W. A. Ironside.
Sir Verney Lovett.
" Mr. H. F. Howard-
" Sir James DuBoulay.
" Mr. A. H. Ley.
" Mr. H. Sharp.
" Mr. R. A. Mant.
" Major-General Sir Alfred Bingly.
" Sir Godfrey Fell.
" Mr. F. C. Rose.
" Mr. C. H. Kestevent
" Mr. D. de S. Bray.
" Lieutanant-Colonel R. E. Holland.
" Surgeon-General W. R. Edwards.
" Mr. G. R. Clarke.
" Mr. Ar. P. Muddiman.
" Mr. C. A. Barron.
" Mr. P. L. Moor.
" Mr. M. N. Hogg.
" Mr. T. Emerson
" Mr. E. H. C. Walsh.
" Mr. C. A. Kincaid.
" Sir Jhon Donald.
" Mr. P. J. Faggn.
" Mr. J. T. MgrteP.
" W. J. Ried.
" W. F. Rice.
" H. Moncrieff Smith.

The amendment was, therefore, negatived.

The Hon'ble Sir William Vincent in winding the debate acknowledged the very great ability and force with which the bill has been criticised, but he submitted that the danger apprehended were over-coloured. The Bill is directed against revolutionary move-

ments alone and not to suppress politics. Referring to the contention made by many previous speakers that the Rowlatt committee itself did not suggest legislation, he quoted from the same report.

'To postpone legislation till the danger is insistant is in our view to risk a recurrence of the history of the years 1906—17.....

In these circumstances we think that appropriate provisions should be framed and enacted, but should not come into force save upon a notification by the Governor General in Council.

"Who can say in the face of this quotation that the Report did not recommend immediate legislation. Again in paragraph 187 the authors of the Report say, 'We have been forced to the conclusion that it is necessary in order to keep the conspiracies already described under control in the future to provide for the Defence of India Act of some of the powers which that measure introduced in a temporary form."

He further denied that revolutionary crime has ceased, and said that there are people who are waiting for the expiration of the present law to renew their sinister activities.

Regarding postponement, he said, that delay would be fatal; "if by sudden events the Defence of India Act was to expire and we had no legislation to take its place, the consequences would be disastrous. All the ground that we have gained now in the suppression of this anarchical movement would be lost. Our police efficiency, which has been so seriously, and in my opinion so unfairly, attacked would be destroyed; the services now employed in suppressing this seditious movement would be so discouraged that I think it would be impossible to expect good work from them and law and order would be sacrificed. We should also not be justified in delaying the passing of this measure, in that the delay would force us to use the Defence of India Act which is a war measure, in times of peace. I am anxious myself that it should not be so used and that we should not be accused of using a measure designed for war for entirely different purposes. To suggest that this measure is due to police inefficiency, my Lord, is, I think, ungenerous and a grudging tribute to men who have done excellent work. On the other hand, it might well be said, if failure to bring these men to trial is what we are accused of, that it is due a great deal to a lack of moral courage, to a lack of that sense of civic responsibility which is really essential in prosecutions of this kind. I will read to the Council what Sir Narayan Chandravarkar and Mr. Justice Beachcroft said :—'Before the Defenee of India Act was brought into force the fair trial of a person accused of revolutionary crime had been rendered practically impossible by the murder of approvers, witnesses, police-officers and law-abiding citizens, suspected by revolutionaries of having given information to or otherwise

assisted the police : a situation of terrorism was thus created.' My Lord, it was the failure to face this danger which has really led to the necessity for these special measures.

"Lastly, it was said that the measure was an unfair infringement on the liberties of the subject. My Lord, I admit that it is an infringement, though I know that if I make that admisssion, I am liable to attack and criticism of the nature delivered now by Mr. Sastri. At the same time, it is useless to minimise what is clearly a fact. But the Government of your Excellency, many of the Members of which are professional lawyers, are the last people in the world who would be willing to impose such restrictions on the liberty of the subject unless they were statisfied that it was necessary. Who were the members of the Rowlatt Committee ? The great majority were men of the same class. Would they have suggested such a course if they had thought any other measure was possible ? Have any other practical measures for meeting this difficulty been suggested to this Council ? I submit none. For abnormal crime you must have abnormal measures. In fact, there is no remedy other than the measures now proposed so far as we know which has any prospect of success, and I think that this was realised by some Members of this Council, for at least one Member said, 'if the circumstances do not improve in future, or if they get worse, I myself will support you in this measure or a Bill of the same nature.'

"Then I am told that the measure is capable of abuse, that innocent men may be arrested, that constitutional agitation will be stopped, that the decision of investigating authorities will be reached on the evidence of police reports alone and that these committees are really a safeguard of no value. Well my Lord, every law may be abused. It will be our duty to do the best we can to see that it is not abused. But to undervalue the work of these investigating authorities and to suggest that men will be interned on police reports alone is to overlook plain facts. I have before me now a very careful report from Mr. Justice Beachcroft and Sir Narayan Chandravarkar on a large number of cases, and I defy anybody to say that they proceeded on police evidence alone or otherwise than after the fairest and most scrupulous examination of the actual facts and materials against each person.

"I am then told that we must expect the most terrible agitation if this Bill passes into law. My Lord, this card of agitation has been played a little too much recently. But I see no reason to minimise the prospect of considerable agitation over this Bill. It will therefore be the Government's duty to endeavour to meet any reasonable apprehensions by such changes in the Bill as are necessary without destroying its effectiveness. If there is any way, as my Hon'ble Colleague said just now, in which we can modify this Bill,

without destroying the effectiveness of the machinery, we shall be quite prepared to do it. And I hope that if we are able to meet the Hon'ble Members of this Council in a reasonable manner they will assist us in allaying any agitation that may arise over this matter."

From the bill the speaker then turned to Pandit Malaviya and attacked the alleged statements in his speech that Govt. was responsible for the Komaghata Maru and Budge Budge incidents.

He resented strongly the insinuation of the Pundit that the Government was responsible for revolutionary crime in Bengal and castigated the Indian members for disclaiming all veiled or unveiled sympathy with the anarchists and at the same time to speak of them as merely misguided youths. "My Lord" he cried, "these are the euphemism used to describe murders, docoities, thefts, and similar distardly crimes !"

The motion that the Bill be referred to Select Committee was then put and agreed to, and on the motion of the Hon'ble Mr. Patel, the Council divided as follows :—

Ayes-36.

His Excellency the Commander-in-Chief
Hon'ble Sir Claude Hill.
" Sir Sankaran Nair.
" Sir George Lowndes.
" Sir Wm. Vincent.
" Sir James Meston.
" Sir Arthur Anderson.
" Sir Gangadhar Chitnavis.
" Mr. W. A. Ironside.
" Sir Verney Lovett.
" Mr. H. F. Howard.
" Sir James DuBoulay.
" Mr. A. H, Ley.
" Mr. H. Sharp.
" Mr. R. A. Mant.
" Major-General Sir Alfred Bingley.
" Sir Godfrey Fell.
" Mr. F. C. Rose.
" Mr. C. H. Kesteven.
" Mr. D. de S. Bray.
" Lt.-Col. R. E. Holland.
" Surg.-Genl. W. R. Edwards.
" Mr. G. R. Clarke.
" Mr. A. P. Muddiman.
" Mr. C. A. Barron.
" Mr. P. L. Moore.
" Mr. M. N. Hogg.
" Mr. T. Emerson.
" Mr. E. H. C. Walsh.
" Mr. C. A. Kincaid.
" Sir John Donald.
" Mr. P. J. Fagan
" Mr. J. T. Marten.
" Mr. W. J. Reid.
" Mr. W. F. Rice.
" Mr. H. Moncrieff Smith.

Noes 21.

Hon'ble Babu S. N. Banerjea.
" Raja of Mahmudabad.
" Dr. T. B. Sapru.
" Pandit M. M. Malaviya.
" Mr. S. Sastri.
" Mr. B. N. Sarma.
" Mir Asad Ali, Khan Bahadur.
" Mr. V. J. Patel.
" Mr. M. A. Jinnah.
" Mir Fazulbhoy Currimbhoy.
" Rai Sitanath Ray Bahadur.
" Raja Sir Rampal Singh.
" Rai Krishna Sahay Bahadur.
" Raja of Kanika.
" Mr. Mazharul Haque.
" Khan Bahadur M. M. Shafi.
" Khan Zulfiquar Ali Khan.
" Mr. G. S. Khaparde.
" Rai B. D. Shukul Bahadur.
" Mr. K. K. Chanda.
" Maung Bah Too.

The motion was, therefore, agreed to.

The Rowlatt Bill II.

(Criminal Law Ammendment Bill.)

Debate in the Imperial Legislative Council.

Delhi 10th February 1919.

Sir William Vincent said that before proceeding with the motion which stood in his name (introduction and reference to the Select Committee the Bill to provide for amendment of the Indian Penal Code and the Code of Criminal Procedure 1898) he would like to state that during the debate on the Criminal Law Emergency Power Bill some of the non-official members said that they would have been in a position to support the measures if it were of a temporary nature. Mr. Banerjee had asked him pointedly what were the exact intentions of the Government. Since then he (Sir William) had ascertained the views of the Government of India and he was authorised to state that the Criminal Emergency Power Bill would remain in operation for a period of three years after the couclusion of peace.

He next introduced the Bill to provide for the amendment of the Indian Penal Code and the Criminal Procedure Code. He said that the Bill was intended to make permanent change in the criminal law of the land. The provisions of the Bill were based on the recommendations of the Rowlatt Report. The first clause of the Bill was based on Rule 25 A of the Defence of India Rules which had been in force for some time. Clause three merely authorised the District Magistrate to direct preliminary inquiry by the police in case of certain offences, the prosecution of which could not be launched without the sanction of the Local Government. It was necessary to hold such inquiry before the Local Government decided whether the prosecution should be launched. Clause 3 merely empowered the Magistrate to order an enquiry by the police but the prosecution could not be undertaken without the Local Government's permission. Clause 4 was found necessary to offer protection to the men affraid of the anarchists, and was intended to amend Section 343 of the Criminal Procedure Code. Section 343 prohibited the offer of threat, inducement etc. to the accused persons to make the statement It had been found that this provision of the law interfered with the promise of protection to the accused person who was willing to become approver but was really afraid of violence and the intention was to enable Government to offer such protection to the persens about to become a witness. Clause 6 intended to check the criminal activities of persons released. He formally moved that the Bill be referred to select Committee consisting of Sir

George Lowndes, Pandit M. M. Malaviya, Mr. Shafi, Mr. Muddiman, Mr. Khaparde, Mr Banerjea, Mr. Fagan, Mr. Patel, Sir Verney Lovett, Sir James Duboulay, Mr Emerson and himself.

The Hon Mr. Patel next moved the amendment "that the consideration of this Bill be deferred till six months have elapsed after the expiry of the term of office of this Legislative Council" He expressed satisfaction at the announcement of Sir William Vincent about the time limit to the Criminal Emergency Power Bill.

He said that clause 2 made the possession of seditious literature criminal and so created a new offence. He traced the gradual tightening of the bond and said that the next measure perhaps would be to penalise a man who *thinks* sedition. The trial of a person accused under provisions of this law would not be in an ordinary court of law The law proposed to make association with an offender prejudicial to the accused. These innovations were highly objectionable. Even the first offender under this law would be treated harshly and not leniently as under the existing law.

Mr. Surendra Nath Banerjea acknowledged on his own behalf as well as that of his colleagues the fact that Government had shown great deference to public opinion by limiting the operation of the first Bill to 3 years His opposition to the Bill however remained and their attitude would be largely determined by the shape the bill took in the Select Committee. It was no use denying the fact that the bill has created great alarm and anxiety in the public mind. He asked the Home Member to make specific declaration that the Bill would be only confined to anarchical crimes. The section about the possession of seditious literature was a dangerous weapon which was liable to be misused. He eloquently appealed the Viceroy to drop the Bill altogether.

Dr. Sapru in supporting Mr. Patel's amendment said he did not wish to cover the same ground as was covered on the last occasion. So far as the questions of policy or expediency were concerned they were dealt with at great length on the last occasion and he submitted the same consideration applied to this Bill as did to the last bill but there were just one or two matters connected with this Bill which he wished to place before His Lordship and the Council. After the announcement that had just been made by the Home Member they found the first bill was going to be of a temporary character. So far as this Bill was concerned it had just been stated it was going to be a permanent addition to the Statute book. The leading feature of this Bill was that it created absolutely new offence. Clause two of the Bill first of all made it penal to possess seditious document and in the next place it cast burden of proof that it was for a lawful purpose on the accused. He did not

think that any of them, however highly placed, would be safe from molestation under the provisions of this section. He ventured to submit that even the Home Member would not be safe. Every day he had to deal with seditious documents and in council-meeting he had often to read them and if an enterprising police officer wished to make himself immortal in the history of the council he could do so by laying his hands on the Home Member for being in possession of the seditious document, and he would have to call His Excellency and them all to prove that he was holding these documents for lawful purpose. He would ask the Home Member to imagine a position like that. He submitted that this was the most vital and far reaching change and he begged His Excellency's Government to consider whether it was wise to rush a measure like this without giving the country opportunity to consider its provisions. Why not circulate it to Local Governments for opinion? Why not invite criticisms from the Judges of the High Court? Why not invite public criticism? He did not think the present Bill stood on the same footing as did the last. That Bill was intended to deal with Emergency that had arisen or that might arise and it was considered necessary that there must be speedy and summary procedure to deal with cases of that character. Those considerations did not arise in this case. He thought the country was entitled to ask for time to consider the provisions of a measure like this. On the last occasion Sir William Vincent had said these bills were intended to grapple with anarchical and revolutionary movement. If that be so why not make it clear? The preamble of this Bill contained the words: "In order to deal more effectively with certain acts dangerous to the State" He would much rather that that they were more definite about the certain acts dangerous to the State and say plainly the acts that are of anarchical and revolutitonary character. That would enable the courts of law to interpret he bill in the manner it should be interpreted. Clauses five and six were also novel provisions of far reaching consequences. He strongly supported Mr. Patel's amendment and urged His Excelleucy's Government out of deference to public opinion in the country to republish the Bill, at least, if they were not prepared to drop it altogether, as he would very much like them to do.

Mr. Chanda thanked the Home Member for his announcement. He associated himself with the view expressed by Mr. Banerjee and Dr. Sapru that the operation of the Bill should be confined to anarchical crimes. The fact that the Government of Bengal were able to release about one thousand detenus clearly showed that the situation was far better than commonly imagined. He read an extract of a letter which he had received from a prisoner in the Andamans, dated 27th October, last, in which among other things

it was said that now that the Government promised substantial Self-Government the work of revolutionaries was over. Mr. Chanda said this clearly showed that with such an attitude of mind coming into the so called revolutionaries the necessity of such repressive laws no longer existed. He criticised the provisions of clause 2 as being very dangerous.

Pandit Madan Mohan Malaviya in supporting the amendment expressed the hope that Government would further consider the matter and drop the first Bill altogether. He wished to point out the danger. In 1907 the Seditious meetings Act was passed as temporary measure and was made permanent in 1911. With regard to the present Bill there was no occasion for hurry. Their request was all the greater in this case because here it was proposed to make permanent additions of novel and dangerous offences. As every speaker before him had pointed out the section about the possession of seditious documents was avery wide departure from the rules in force under the Defence of India Act. In these Governmnnt defined what documents were seditious. They had prohibited the possession of certain documents. Everyone therefore knew what they were and it was easy to avoid them. The present section left it to every individual to decide whether the document was seditious or not. Everyone knew how very dfficult it was to decide whether the document was seditious or not. What of ignorant school boys? What of Newsboys selling papers in the streets? Even courts had differed and it was rather hard and positively unfair to ordinary citizens that the possession of the document which might be interpreted as seditious be made penal. Now who were the persons likely to fall victims. The Rowlatt committee had said those evilly inclined sought to convert the young. If seditious leaflets were circulated among students were they expected to judge whether the documents were seditious? He thought a lot of poor students would fall victims to this provision. He submitted the remedy was worse than the disease. They ought to find measures which would have public sympathy and support to deal with this matter. He urged the Government to limit the scope of the proposal to only introducing the Bill to-day and to refer the Bill to the Select Committee during the Simla sessions.

Mr. B. N. Sarma said he wished the Government had come to the same decision with regard to this Bill as the Criminal Emergency Power Bill in keeping it in operation for three years, He hoped it was not too late. He criticised at length several provisions of the Bill and concluded by appealing to the Viceroy that the Bill be dropped.

Sir George Lowndes then addressed the Council. He dealt with the objections raised by the non-official Members against the various clauses. He first took up the question of clause two and

said in drafting the clause he intended to make penal possession plus intent to publish. He had tried to put it in plain English language but if it was thought the section went beyond that it was a matter to be settled in the Select Committee. With regard to other difficulties raised, he said, they existed under the present law also. They were not creating any new difficulties. People who dealt with rather doubtful matters had got to take the risk of being prosecuted. What Government wanted was to prevent the mischief being done, and any means which could prevent the seditious matter getting out would commend themselves to every member. They all wanted to do the same thing and how best it could be done could be discussed in the Select Committee. Dealing with the clauses about associating with persons convicted of offences against the state he said the answer to Mr. Bannerjee's argument was that the relevancy and admissibility of evidence were two different things. Many things were admissible in evidence but they would have no weight when proved.

Sir William Vincent who spoke next in opposing Mr. Patel's Amendment on behalf of the Government said the first point on which he was asked to give assurance by the members was as to the scope and intention of the two bills brought before the Council.

The provisions contained in clauses two were exactly the same as those in rule 25A, D. I. A., but he was quite prepared to examine this matter further. Dealing with clause 5 relating to associaton, he said, the principle of, the clause was based more or less on section in Evidence Act but the matter could be examined in the Select Committee. What Government had attempted to do was to put down all the recommendations of the very powerful committee for prima facie consideration of the Council. Dealing with the amendment he said he was afraid he was unable to meet the wishes of the mover. The principles of the Bill had been before the public for a considerable time and had been criticised at great length and no useful purpose would be served by the republcation and delaying the reference to the Select Committee. At the same time he realised this Bill stood on a different footing from emergency measure and it seemed to him the most convenient and advantageous course was to refer the Bill to the Select Committee at once. After the Committee had examined the details, if there were considerable changes they would consider the necessity of republishing it.

Mr. Patel's amendment was put to the Council and lost.

Mr. Banerjee's amendment was put to the Council and lost.

The Viceroy next put the original motion of refering the Bill to the Select Committee which was carried.

The Bill was referred to the Select Committee.

Report of the Select Committee

On the Criminal Law Emergency Powers Bill.

(Rowlatt Bill No. 1. 1 March 1919.)

(For the Original Bill See the Introduction)

The following is the text of the Select Committee's report on the Criminal Law Emergency Powers Bill (Rowlatt Bill) :—

1. We, the undersigned members of the Select Committee to which the bill to make provision in special circumstances to supplement the ordinary criminal law and for the exercise of emergency powers by the Government was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed hereto.

2 Before we proceed to set out the modifications of detail which we have made in the Bill we may state at once that we do not propose to refer to the numerous amendments which were suggested in the Bill in so far as they were destructive of the general principles of the Bill. Amendments of this kind should be brought forward in the Council which is the appropriate arena for their discussion.

3. An apprehension that has been widely expressed in connection with the Bill under our consideration is that its provisions if they became law might be used or rather abused for the purpose of suppressing legitimate political activities. The Hon'ble Member in charge of the Bill has, on several occasions, repudiated any such intention in unequivocal terms. We, however, consider that in order to avoid the possibility of such a view being reasonably entertained, the bill itself should bear clearly impressed on its face the refutation of such a suggestion. With this object before us, therefore, we have made several amendments to make it clear that as the long title states the Bill is a Bill to cope with anarchical and revolutionary crime. These amendments will be found in the long title, the preamble, the short title, Clause 3, Clause 20 and Clause 32 in all of which provisions with what might possibly be considered excessive caution, we have reiterated the words which in our opinion place the object and scope of the Bill beyond all doubt.

4. The Bill, as originally drawn, purported to make a permanent addition to the statute Book.. The decision which was announced in the Council that it would be limited in duration to a period

of three years from the termination of the war which we have given effect to by the new sub-clause (3) Clause I, has enabled us to revise certain other provisions of the Bill notably the important clause 26. The duration of the Bill moreover supplies an automatic limitation in regard to the operation of certain of its provisions, a question which otherwise might have called for our anxious consideration.

Methods of Trial.

5. We will now refer to the detailed amendments which we have made in the Bill in so far as they have not already been disposed of by the foregoing remarks.

6, We have omitted the definition of offence against the State in Clause 3 as the term only occurred in Clase 20 and for the reason which we give in dealing with that clause it has now disappeared from the Bill.

7. Clause 3 :—We have assimilated the language of this clause with that of clause 32 as we think these clauses should correspond as closely as may be in the nature of the declaration they require.

8. Clause 4 :—It seems to us desirable that once an accused has been committed for trial no order should be made under this section, and we have accordingly inserted the words "or the court of sessions" so as to exclude cases where commitments have been made as well to that class of court as to the High Court. In this respect we follow the precedent of the Criminal Law Amendment Act of 1908. We think further that the accused is entitled to have notice of the particulars which the prosecution intend to prove against him and we have amended the wording of sub-clause (3) to give effect to this view.

9. Clause 6:—The new proviso to this clause which replaces that in the bill as referred to us must be regarded as a compromise between the conflicting influences. On the one hand we recognise that the importance of a local trial may in particular circumstances only be fully realised by the executive Government. On the other-hand we are averse to invoking the authority as a matter of course of the Governor General in such a matter. The provision we suggest seems to us a reasonable via media.

10. Clause 8;—We have slightly amended this clause so as to require the prosecutor to open his case, thus following the lines of Section 286 of the Code of Criminal procedure.

11. Clause 9:—In deference to the wishes of some members of the committee we have extended the period of adjournment which is provided for in this clause from ten to fourteen days.

12. Clause 10:—We think it desirable that a full record of the evidence should be made but not that it should necessarily be

recorded by the Court itself. The amendments made in this clause are intended to give effect to this view.

13. Clause 12 :—We have amended the provisions ofthis clause to bring it more closely into line with the provisions of 61 and 62, Victoria C 26 and have included in the clause the provisions of this Act prohibiting comments by the prosecution on the failure of an accused to give evidence and providing that if he does give evidence he shall do so from the witness box. These provisions are probably of considerably less importance in a trial such as that which will be held under the bill by three High Court Judges, but as their insertion is urged on us by some members of the committee we have deferred to their views.

14. Clause 14 :—We have been pressed to amend Clause 14 on the lines of Section 1 (4) of the Irish Act of 1882 (45 and 46 Vict C 25) but after considering the matter carefully we feel that there is no reason to depart from the proposal in the Bill which is indeed on the same lines as the corresponding provision in the Criminal Law Amendment Act 1901.

15. Clause 15 :—We think this clause as it stood in the bill went too far and we would only allow a conviction under it in respect of an offence against any provision of the law which is referred to in the schedule.

16 Clause 19 :—We have made the intention of the rule making power in item of this clause clearer by the insertion of the words "to the complete satisfaction of the Court" and we have enabled rules to be made to provide for the intermediate custody of the accused.

17. Clause 20:—With the introduction of definite reference to anarchical and revolutionary crimes in this clause, it seems to us to follow that the terms "Scheduled offences" must be substituted for the words "offences against the state" which formerly appeared in this clause. A comparison between the language of clause 20 and of Clause 32 as they now stand will show the progressive degrees of emergency which will justify the application respectively of part II and part III of the Bill.

18. Clause 21 :—We have limited the purposes to which security can be taken under this clause to the very definite cases which we now set out in the Bill. A bond to be of good behaviour would on the analogy of section 121 of the Code of Criminal Procedure have covered the case of any offence punishable with imprisonment and we do not think that it is necessary to go as far as that. We have also made a small amendment at the end of this Clause to show that the reports to the police are to be made at the nearest police station.

19. Clause 23 :—We have modified the language of this clause to make it clear that unnecessary force is not covered by the terms of the clause.

Investigating Authority.

20. Clause 25 :—This important clause has been receiving our most careful consideration. The procedure it contemplates is a fundamental basis of the recommendations of the Rowlatt Committee and any material change in the nature of the investigating authority would completely destroy the efficiency of the procedure it contemplates. We think, however, that the following modifications may be made without unduly affecting the procedure. In the first place we think that the Government should set out all material facts in its possession whether in favour of or against the accused, and we have therefore substituted for the words " in support of its action" at the end of subclause (1) the words "relevant to the inquiry." We have made a slight but very important change at the end of sub-clause (2) where we require that the investigating authority shall make such further investigation, if any, as appears to such authority to be relevant and reasonable. The only ground therefore for refusing to inquire into the matters which the person whose case is under investigation desires to adduce, would be that such inquiry did not appear to the investigating authority to be relevant and reasonable. This is an important change in the substance of this sub-clause. We have been compelled to reject various proposals affecting the provisos to sub-clause (2). We recognise the force and ability with which some of them were pressed but to give effect to the amendments would be to destroy the whole procedure. Under this part of the Bill we have inserted a new sub-clause (4) with the object of penalizing false statements to the investigating authority when made by persons other than the person whose case is under investigation. It was suggested to us that conclusions might be held to include the reasons for conclusions. This is clearly not the intention of the Bill and it seems to us most undersirable that any such argument should be left open. We have therefore added the words "and may if it thinks fit adduce reasons in support thereof" to sub clause (4) (now sub clause 5). These words may be considered abstruse but for the reasons we have alluded to above we recommend their insertion.

21. Clause 26 :—We have amended sub-clause (1) so as to make it clear that the conclusion of the investigating authority shall be set out in the form in which they are reported by that authority. We have recast the provisions of this clause after sub-clause (2) down to the end of the clause. Our new sub-clauses provide that no order shall continue in force for a total period of more than

two years against three years in the bill as published. It will be seen from our new sub-clause (4) that where an order is made again on the expiry of the first order the Local Government must refer any representation on behalf of the person to whom it relates to the investigating authority and consider the report of that authority.

22. Clauase 27 :—We have made a small amendment here to make it clear that the penalty provided by this clause shall only be enforced on conviction by a Magistrate.

23. Clause 29 :—We have amended subclause (1) of this clause so as to prevent any appointment of investigating authorities. We are aware that this was not the intention of the Bill, but we think it is desirable that that should be apparent on the face of the clause.

24 Clause 30 :—We have slightly expanded the provision as to visiting committees and have required that rules made for their guidance should be published in the Gazette.

25. We have made a small addition in Clause 31 which needs no explanation.

Detention Clause.

26. Clause 33 :—We think it desirable and we have made it clear by an appropriate amendment that no person confined under this act should be confined in a place where convicted prisoners are confined. This is clearly the intention of the framers of the Rowlatt report and it is a matter which, we think, should receive statutory recognition.

27. Clause 34 :—In deference to the views of some members of the Committee we have reduced the normal term of detention in custody under the provisions of this clause to seven days.

28. Clauses 38 and 39 :—Exception was taken to the provision in the Bill referred to us which provided that no reference to the investigating authority should be necessary where these powers were employed. We recognise, however, that there is force in the contention which was put before us by the member in charge of the Bill, who pointed out that in most cases investigation of a very careful nature had recently taken place in regard to these persons. We think the compromise provided by our new provision to both these clauses should meet all reasonable requirements.

29. Clause 40 :—We think that the period of thirty days contemplated by the provison to sub-clause (3) of this Clause is unnecessarily long and we have reduced it to 21 days.

30. The Schedule :—We were much pressed to exclude offence under 124 (A) from item I of the schedule and in deference to the wishes expressed by the non-official members we have removed

offences against this section from item I and inserted them in item 2 (A) of the same schedule which will supply the safeguard provided by that item in regard to the offences included therein. As a matter of drafting we have removed those offences which are themselves 'attempts' from the list of offences in item 2 (A), as we think they are sufficiently provided for by item three of the schedule.

31. It will be observed that all the amendments that we have made in the Bill are amendments in favour of the subject and that on the other hand the main scheme of the Bill has not been materially altered. In these circumstances the majority of the Committee do not recommend republication of the Bill.

Notes of Dissent.

1. The Majority Note.

The report was not signed by Messrs Khaparde, Patel and Pundit Malaviya. Messrs Sastri, Shafi and Surendranath Bannerjee signed subject to the following note of dissent :—

We recognise that the Bill as altered by the Select Committee is not open to objection to which it was open in its original form. Its duration has been limited to three years and by the words put into the preamble and certain clauses its application has been restricted to offences connected with anarchical and revolutionary movements. Several minor improvements have likewise been made. Still we disapprove of the policy and principles of the Bill and must reserve our right to oppose it altogether Without prejudice to this right we proceed to make some observations and suggestions with reference to the provisions.

Clause 12 :—We are not satisfied that it is desirable to introduce in this country the principle of giving an accused person the option of offering himself to be examined as a witness. One of us, Mian Mahomed Shafi, however, thinks it an advantage and approves of its introduction, but we are all agreed that if it is introduced, a safeguard should be provided in addition to the one embodied in subclause (3). It should be something to this effect : "nor shall the Court make an inference adverse to the accused from such failure on his part."

Clause 14 :—We cannot agree that in the case of a difference of opinion among the Judges the opinion of the majority should prevail so as to result in a conviction. Following the example of the Irish Crimes Act, we would make conviction dependent on the unanimous opinion of the Judges.

Clause 15 :—It appears to us necessary to take care that this part of the Bill is not used for the trial of scheduled offences generally. We would insist on a proviso to Clause 15 somewhat as follows : —Provided that when the Court convicts a person, whether of the offence with which he was charged or of another, it shall record a finding that such offence is connected with an anarchical or revolutionary movement.

Clause 17 :—This clause takes away the right of appeal to a High Court. We think it should be provided on the contrary that on the analogy of the Irish Crimes Act an appeal would lie in such cases to

a Full Bench of the High Court consisting of not less than five Judges.

Clause 21 :—It is a part of our general objection to the Bill that no restrictions should be imposed on the personal liberty of a citizen except as the results of conviction in a court of law. Excepting part I, the rest of the bill gives sanction to such restrictions by mere executive order. Assuming however that it is necessary to the executive Government such extraordinary power, we indicate below certain points on which we differ from the majority report. We suggest that before passing an interim order under Clause 21 against any person, the Local Government should be required to place all the materials relating to his case before a judicial officer, not below the rank of District and Sessions Judge, and take his opinion thereon.

Clause 25 :—Sub clause (2) makes it obligatory on the investigating authority to hold the inquiry in camera. We think it sufficient to provide for the inquiry being in camera if and when the investigating authority thinks it necessary and we would provide that right of giving evidence should be expressly conceded. Sub-clause (23) says that the investigating authority shall not be bound to observ the rules of the law of evidence. We would provide that such authority shall be bound as far as possible to observe those rules.

Clause 26 :—We do not consider it sufficient protection that a person against whom restrictive orders are renewed should be allowed after such renewal to make a representation to be placed before the investigating authority as is provided in sub-clause (4). We are of opinion that no orders under clause 21 should be extended for a further period without the case being referred to the investigating authority a second time and the person in question being allowed more or less in accordance with the procedure under clause 25, an opportunity of being heard.

Clause 32 ;—We consider that the investigating authority should consist of two persons who have held judicial office, not inferior to that of a District and Sessions Judge and one non-official Indian.

Clause 33 :—We recommend that before orders are passed against a person under this clause, that the same procedure be adopted as we have recommended under clause. 21. The materials of the case should be referred for opinion to a judicial officer not below the rank of District and Sessions Judge.

Clause 36 :—We would of course modify the procedure under this clause on the same lines as the procedure under clause 21 and 25.

In conclusion, we strongly recommend that in view of the substantial changes suggested above and in view of the fact that the bill

embodies principles wholly at variance with the principles of the ordinary criminal law, the bill be republished and referred for opinion to the Local Governments and the High Courts and important public bodies and individuals.

(Sd.) Surendranath Bannerjee
V. S. Srinivasa Sastri
M. Mahammad Shafi.

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2. Hon. Nabab Nabab Ali's Note

When the bill was first introduced it was contemplated by Government to lay down a permanent legislation in the country which it was feared would to a great extent restrict the liberty of the people. On the opposition of the the people's representatives in the Imperial Legislative Council, Government subsequently declared the intention to introduce it only as a temporary measure and thus a considerable portion of its harmful nature was reduced. The bill as it has now emerged out of the Select Committee is a decided improvement on the one introduced in the Council in the original draft of the bill. The preamble was in general terms but by the addition of the words, "for the purpose of dealing with anarchical and revolutionary movements" in the preamble of the bill as amended by the Select Committee its scope has been much limited. Several other improvements have likewise been made and they, coupled with the words added in the preamble mentioned above, have greatly removed its objectionable character. I have however to dissent on the following points from the majority report :—(3) Some words to the following effect should be added to the subclause "nor shall the court make any inference adverse to the accused from such failure on his part."

20. (3) "Of three persons constituting the investigating authority two should be persons who have held judicial office not inferior to that of a District and Sessions Judge". Now as the Bill has given rise to considerable nervous agitation in the country and opposition meetings are being held in every quarter and as certain vital changes have been introduced in it by the amendments made by the Select Committee whereby its objectionable character has been much reduced if not almost, removed it will be proper for Government to publish the Bill again in the Official Gazettes.

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3. Hon. Mr. Khaparde's Note

The following is the minute of Mr. G. S. Khaparde :—

The debate in the Council and the meetings of the Select Commitee appointed to consider the provisions of the bill in detail have made it abundantly clear to me after long and anxious consideration that the principles or rather the departures from the principles which this Bill embodied cannot possibly commend themselves for acceptance.

Its first part provides for the proclamation of any area in British India, without any reference to the Indian Legislative Council. It constitutes a tribunal which need not be unanimous in its condemnatory findings and from the decision of which no appeals of any kind or in any form are permitted. An examination of the accused is allowed on oath which in the present state of India and its judiciary is highly unsafe and the relaxation of the rules of admissibility and relevancy of evidence renders the whole part in my opinion dangerous.

2. Parts 2 and 3 substitute the executive for the judiciary, and the liberty and property of subjects can be interfered with without the intervention of a court of justice. This is to my mind inconceivable in times of peace. The proclamation of an area is again valid without any reference to the Indian Legislative Council and the provision calls into existence an investigating authority, which has neither executive nor judicial functions, works "in camera," can make no recommendations, and whose conclusions are not binding on the Local Government. This introduces a state of things so anomalous and so antagonistic to any scheme of good government that probably a parallel to it cannot be found in any system of jurisprudence worthy of the name.

3. Part four adjusts the provisions of the Bill with previous legislation and part five contains a provision which directly contravenes the judgment of Privy Council in Moment's case and this as a whole is beyond the competence of the Indian Legislative Council to pass, not only because of this transgression of its power, but also because of other provisions affecting the liberty and property of British Indians and their allegiance to the Crown during time of peace.

4. The schedule and the whole framework of the Bill shows without any possibility of a mistake that the main question, the determination of which in the affirmative confers jurisdiction on the special tribunal created and the investigating authorities brought

into existence, is to be decided not by any judicial authority but by the executive ; it is, whether the offence or offences which are alleged to have been committed by an accused are connected with any movement endangering the safety of the State. It is a fundamental question of fact and cannot be left to be determined by a Local Government which of necessity has to depend on reports and uncross-examined testimony.

5. The report of the Sedition Committee on which the Bill is based and to carry out the recommendation of which it has been framed and introduced is the result of an inquiry held "in camera" at two places, viz., Lahore and Calcutta and is given to the Council in a mutilated and incomplete form without the evidence and papers which throw any light or supply any justification for it.

In these circumstances I regret I cannot give my concurrence to any provisions of the Bill and the circumstance that it has been rendered temporary does not constitute any material improvement at all.

4. Hon. Mr. Patel's Note.

The following is the memorandom of Mr V. J. Patel :—

I regret I find myself unable fo join with the majority of the Select Committee in signing the report for the following reasons :—

Committee's Report Invalid.

The report of the Select Committee is in my humble opinion an invalid document. At the first meeting of the Select Committee two preliminary points were raised, the first was whether the Select Committee could consider the principle of the Bill and report to the Council that the bill should be dropped, and the second, whether the Select Committee could recommend to the Council that it was not within the competence of the Indian Legislative Council to enact the proposed law. The Chairman of the committee gave his ruling that the Select Committee have no power to go into the principles of the Bill and in his opinion the duty of the Committee was restricted to the examination of the seven clauses of the Bill and the recommending of such alteration and amendments as they might think proper.

Select Committee's Rights.

With due deference of the high authority of the Hon'ble the Law Member, I respectfully submit that his ruling was wrong and probably misled several Hon'ble members of the Committee into erroneous views as to their rights and duties as members of the Select Committee, with the result that they thought it to be their duty, as I did not, merely to examine the clauses and recommend amendments. In this connection I beg leave to refer to a few rules of our Council on the subject. Under rule 19, the member in charge of a Bill is intended to make a motion that the Bill be referred to a Select Committee who are required to state in their report whether or not in their judgment the Bill had been so altered as to require republication. Nor is there any such thing as an order of reference. The Bill is merely referred intact without any instructions. This is quite in accordance with the practice obtaining in the British House of Commons.—There the Select Committee, to whom Bills are referred, are entitled to deal with them in any manner they like and it has always been taken for granted in this country that our Select Committees have exactly the same power. Unless therefore there is any authority that the scope, functions and duties of our Select Committee are expressly limited in any par-

ticular way the committee has authority to deal with the Bill as they think proper. The rules of our Councils referred to above in no way define or limit the powers of the Committee ; but on the contrary they provide sufficient implications to show that their powers are as wide as those of a Select Committee of the House of Commons. In this view of the question, I am of opinion that the decision of the Hon'ble the Law Member is wholly unconstitutional and therefore the whole proceedings of the Select Committee and the report based thereon are invalid. That being so if the Government do not abandon the Bill the only course left open to them is to move the Council to recommit it to the Select Committee.

2. Regarding the second preliminary point referred to above, I am of opinion that the question is not so free from doubt as the Hon'ble the Law Member would have the Council believe. In dealing with this question three points arise for the consideration of the Council : (1) Section 65 of the Government of India Act (1915) says that the Governor-General in the Legislative Council has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting any part of the unwritten laws of the constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the United Kingdom. Now, what is this bond of allegiance referred to in the section ? It is that the Crown protects the subject against arbitrary excutive power and that the subject is entitled to be tried according to the recognised forms of law before he is deprived of his liberty. The proposed Bill in parts 2 and 4 substitute the authority of the executive for that of the judiciary in respect of certain offences and thus infringes upon the fundamental liberty of the subjects of His Majesty in India thereby repealing the unwritten laws and covention of the United Kingdom whereon depends the allegiance to the Crown. It is a question therefore whether the Indian Legislative Council has the power to enact this law. (2) Section 106 of the Government of India Act 1915 provides that the several High Courts are courts of record and have such jurisdiction, original and appellate, and all such powers and authority over or in relation to the adminstration of justice as are vested in them by Letters Patent. The section further states that 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.

Part I of the Bill ousts the jurisdiction of the High Court and vests it in a specially constituted tribunal. The judges of the Indian High Courts derive their authority from the Letters Patent signed by His Majesty and their power could not, in my opinion,

be curtailed for any reason by any enactment of the Indian Legislative Council as it is proposed to be done under this Bill.

Section 32 of the Government of India Act 1915 enacts: (A) that the Secretary of State in Council may sue and be sued in the name of the Secretary of State in Council as a body corporate; (B) every person shall have the same remedy against the Secretary of State as he might have had against the East India Company if the Government of India Act 1858 and this Act had not been passed; while Section 65, Clause 2 provides that the Governor-General in the Legislative Council has not, unless expressly so authorised by Act of Parliament, the power to make any law repealing or affecting any Act of Parliament passed after the year 1869 and extending to British India.

The provisions of these two sections read together make it clear that the Indian Legislature has no power to enact a law depriving any British Indian subject of his right to sue the Secretary of State in Council and yet we find that Clause 41 of the Bill says. that no order under this Act shall be called in question in any Court. I have already observed that the question whether the Indian Legislature is competent to pass this measure is not free from doubt. But I would go further and say that it is certainly not a question which should have been lightly treated or summarily rejected. Indeed, the learned authors of the Rowlatt Report themselves, in the concluding paragraph, have expressed their doubt and made no attempt to solve this difficult question. They say in making suggestions for legislation: "We have not considered at all whether it would be argued that such legislation is in any respect beyond the competence of the Governor-General in Council. We have no authority to lay down the law on any such point and any provisional assumption as the basis of our proposals would only cause embarrassment. We have proceeded therefore on the basis that any suggestions of ours which it may be decided to adopt will be given effect to by some legislature competent for the purpose".

Executive Supremacy.

The proposed measure in Parts 2 and 3 substitutes the rule of the executive for that of the judiciary. It is utterly subvertive of the order of things hitherto recognised and acted upon in all civilized countries for good government. In the words of the Hon'ble Mr. Sapru, "the bill is wrong in principle, unsound in conception, dangerous in its operation and too sweeping and too comprehensive. It will strike a deathblow to all legitimate and constitutional agitation in the country. It will defeat its own purpose for the reason that it will drive all agitation into a hidden channel with the result that the consequential evils will follow as night follows the day."

I am respectfully of opinion that a Government that contends that the country cannot be governed even in ordinary times without the assistance of such unconstitutional laws as are proposed to be enacted, forfeits its claims to be regarded as a costitutional Government. Just consider for a moment what the provsions of the Bill are.

Part I.—The executive Government is empowered to say that certain offences shall be tried by a specially constituted tribunal and not by the ordinary courts of law ; (2) in such trials, there shall be no jury ; (3) in such trials there shall be no commitment proceedings ; (4) in such trials, certain statements that were inadmissable, shall be admitted in evidence ; (5) in such trials the accused person shall be examined and cross-examined on oath as a witness on his own behalf ; (6) such trials may be held in some place other than the usual place of sitting of the High Court on the mere certificate of the Advocate-General unsupported by an affidavit or ground ; (7) the tribunal is bound to accept the opinion of the Local Government that the offence charged is connected with a movement endangering the safety of the State, and to sentence the accused in spite of its belief that the offence is in no way connected with any such movement ; (8) the judgment of the tribunal is to be final and conclusive and there is to be no right of Appeal or revision and no High Court is to transfer any case or issue any mandamus.

Parts II and III :—All the provisions of these parts stand self-condemned. Under part I the Provincial Executive, on a notification of the Governor-General-in-Council is empowered to pass all or any of the following orders against any person in their jurisdiction who in their opinion, is or has been concerned in any movement of the nature referred to in section 20 : (1) To execute a bond for a period of one year to be extended for another year, if need be, that he will not commit or attempt to commit or abet the the commitment of any scheduled offence ; (2) to notify his residence to the authority specified ; (3) to remain or reside in any specified area in British India ; (4) to abstain from any act calculated to disturb the public peace or prejudicial to the public safety ; (5) to report himself to the police at specified periods ; (6) Under the provision of part III the Provincial Executive, on a similar notification and in certain circumstances, is empowered (A) to arrest, without warrant, any person who, in their opinion, is concerned in a scheduled offence ; (B) to confine him ; (C) to order the search of any place which in their opinion had been, is being or about to be used, by any such person for any purpose prejudicial to the public safety ; (8) It is to be noted that all these orders are to be made without even the semblance of a judicial enquiry in any shape or form. As one of the non-official members of the

Council very rightly remarked, these provisions are nothing more or nothing less than undiluted coercion. It has been suggested that there are provisions in these parts calculated to safeguard the interest of aggrieved persons. These provisions in my opinion, are to siy the least hopelessly inadequate and the so-called safeguards are merely illusory for the following reasons : (1) the appointment of the investigating authority is to be made by the Executive Government, (2) the investigation is to be held "in camera," (3) the person concerned is to have no right to be present at all the stages of the enquiry, (4) the person aggrieved is to have no right to be represented by a pleader ; (5) the investigating authority is not bound to follow any rules of the law of evidence, (6) the investigating authority is to have no power to summon and compel the attendence of any witness and no suit, prosecution or other proceedings shall lie against any person for anything done or intended to be done in good faith and thus complete the paramountcy of the Executive and place the liberty of the subject entirely at its mercy.

A measure without a parallel.

In these provisions we find the functions of the executive, the legislature and the judiciary, all combined in the executive. Now the Legislature in this country, constituted as it is, carries out the will of the executive, proposed that in respect of certain offences, the judiciary must disappear and make room for the executive. Suffice it to say that the provisions are without a parallel in the legislative history of the civilized world. We are told that the measure after all is to be a temporary one, to be in force for a period of three years only and the non-official members must therefore reconsider their attitude towards the Bill. On that account I submit that a measure which is in fact and in substance dangerous and obnoxious does not cease to be so because it is limited in duration. The question in issue between Government and the non-officials is not, and has never been, whether the measure should be a permanent or a temporary one. The difference is realy one of principle. There can therefore be no question of compromise. No Indian can and will, therefore, I venture to say, ever consent to this measure being placed on the Statute book in whatever form or shape even for a day. We believe that repression is no remedy to eradicate revolutionary and anarchical crimes. What is the root cause of the evil ? These crimes are the outcome of political and administrative stagnation which has resulted in untold miseries to the people of India. The only remedy therefore is to remove the standing grievances of the people which the In lian National Congress has been proclaiming year after year for the last 3 and 30 years. Has repression succeeded in any cour y ? Has it succeeded in Ireland with all

its Crimes Acts ? Has it succeeded in our own country ? We have amended the Criminal Law to widen the scope of the definition of Sedition. We have amended the Criminal Procedure Code from time to time to meet the end in view. We have disfigured our Statute book by placing in it the Criminal Law Amendment Act of 1908, the Conspiracy Act of 1913, the Press Laws and the like. We tried the prevention of the Seditious Meetings Act and with what result we all know.

A Personal Explanation.

I have been told that I should have declined to serve in the Select Committee on the basis to which I was so much opposed. My reply is this : In the first place, I maintain that the Select Committee has the right to deal with the Bill as they like and I thought I would try to convince the Committee that they should recommend to the Council to drop the Bill. I have already pointed out in the first part of this note that the ruling of the Chairman made this course impossible. In the second place, I was confident that in deference to the opinion in and outside the council and in view of the fact that the passage of the bill would throw the country into a vortex of agitation unknown in the history of British India, the Select Committee would see its way to so amend the bill as to make it less dangerous, less obnoxious and perhaps to some extent less objectionable. In this hope I confess I am grievously disappointed. No doubt the Select Committee has recommended some alterations in the Bill, but these relate to non-essentials and I am sorry to say that not an inch of ground was yielded in respect of the essentials. If at all the Bill has been made stiffer in one essential particular, viz., that the provisions of Part II of the Bill as introduced were applicable to movements which in the opinion of the Governor-General in Council were likely to lead to the commission of offences against the State only, while the the said provision as amended by the Select Committee apply to movements likely to lead to the commission of all the scheduled offencess which are of course much wider in scope.

5. Hon Pandit Malaviya's Note.

The following is Pandit Madan Mohan Malaviya's minute.

The amendments which have been made in the Select Committee, though mostly useful, have not touched the main scheme of the Bill. Its policy and principles, its character and scope, remain unaltered. I am constrained therefore still to recommend that the Bill should be withdrawn. If even the most important amendments urged by several of us Indian members had been accepted, they would have made the Bill less dangerous and therefore less unacceptable. But the majority of my colleagues did not see their way to accept them nor did they agree to recommend a re-publication of the Bill though this was urged unanimously by all the Indian members present. The prevention of the Criminal Act of 1882 was described as one of the most stringent measures ever introduced into Parliament, as the strongest measure of coercion that was ever passed for Ireland. The present Bill is far more stringent than that Act. Under the Act persons committed for certain offences were to be tried by a Special Commission Court consisting of three Judges of the three Supreme Courts of Judiature in Ireland but the Act laid down that a person tried by a Special Commission Court shall be acquitted unless the whole court concur in his conviction 45 and 46 Vic. Ch. 25 S. I. (4) Contrary to this the present Bill provides (S. 14) that in the event of any difference of opinion between the members of the court the opinion of the majority shall prevail. When it is remembered that the Court may pass any sentence, including a sentence of death, upon a person convicted by it the danger and injustice involved in such a provision will become obvious. I cannot think of any justification for the Government view that even in a case where one of the three High Court Judges who have tried a case should be of the opinion that the guilt of the accused has not been established or is doubtful or even that the accused is not guilty, the accused should be convicted and sentenced, may be, to death by the verdict of the remaining two judges. In my opinion Section 14 of the Bill should be modified to the effect that if the Court is not unanimous as to the guilt of the accused, he shall be acquitted but this alone will not be sufficient.

Right of Appeal.

The right of appeal is one of the most valuable safeguards of justice and liberty and an appeal should be provided from the judgment of the trial court as it was under the Act of 1882 referred

to above See. 2 (I) of that Act laid down : Any person convicted by a special Commission Court under that Act may subject to the provisions of the Act appeal either against the conviction and sentence of the Court or against the sentence alone, to the Court of Criminal Appeal hereinafter mentioned on any ground whether of law or of fact. This Court of Criminal Appeal was to consist of the 6 Judges of the Supreme Court of Judicature in Ireland and any of those Judges, not less than five, may sit and exercise the powers of the Court. It was provided that a Judge who sat in the Special Commission Court should not sit in the Court of Criminal Appeal on any appeal against a conviction or sentence by that Special Commission Court to which he was party, also that the determination of the appeal shall be according to the determination of a majority of the Judges who heard that appeal. It should be remembered that the prevention of the Crimes Act was passed at a time when, in the words of Sir William Harcourt, who introduced the Bill, all sorts and conditions of men in that country without distinction combined together to denounce this atrocious deed (the Phœnix Park murder) and its authors and yet the Government of the day took care that in providing for the repression and prevention of crime, they did not unnecessarily endanger the liberty of the subject. They required unanimous verdict in the first Court and provided for an appeal from that verdict. Sir William Harcourt said the court will sit without a jury. They will decide on the questions both of the law and of fact and their judgement shall be unanimous. Well then in order to give every security and confidence to this tribunal we have in all these cases an appeal to that court of criminal cases reserved I belive that is what it is called in Ireland. At all events it is a body consisting of the residue of the judges of the supreme Court. I believe that the ordinary quorum of that court is five judges and upon the appeal the judgement will be by a majority of the court so that you will see that no man can be convicted under these circumstances without the assent of six judges, three in the Court below and three in the court above. Well, we have another security. There will be an official shorthand writer and the notes will go to the Court above, but the Court above may, if they think fit, hear other evidence and call other witness so that in point of fact at their discretion, they may have a rehearing of the case and thereupon the court may either affirm the sentence of the Court below or they may alter the sentence. That is to say, in the way of diminution and not of increase.

The proposals in the Bill are based upon the recomendations of the Rowlatt Committee who have recommended, as they have said, (182 of their report) in substance the procedure established under the Defence of India Act though they have recommended that

the tribunal should be of the highest strength and authority. The Defence of India Act substantially embodied the main provisions of the originally proposed draft ordnance (Rowlatt Committee 140) which had been proposed by Sir Michael O'Dwyer (Ibid 136). The Lieutenant-Governor considered that it is most undesirable at the present time (end of 1914) to allow trials of any of these revolutionaries or other sedition mongers who have been or may be arrested in the commission of crime or while endeavouring to stir up trouble to be protracted by the ingenuity of counsel and drawn out to inordinate length by the committal and appeal procedure which the criminal law provides. His Honour therefore submitted for approval a draft ordinance which provided, subject to the sanction of the Local Government, to its aplication in the cases (A) for the elimination of committal procedure in the case of offences of a political or quasi political nature, (B) for the elimination of appeal in such cases (c) for the taking of security from persons of the class affected by a more rapid procedure than that prescribed by the ordinary law but as the Committee note, the measure was exceptional and intended to cope with a temporary emergency and in enacting a law in the happily altered times in which we are now living the Government should not follow the model of the exceptional ordinance upon which the Defence of India Act was based but at least of the parliamentary statute referred to above. I would therefore modify Section 17 of the Bill and provide for an appeal to at least three judges of a High Court other than those who tried the case.

Accused Person's Evidence.

I would also omit Section 12 of the Bill which provides that an accused person may, if it so desires, be examined on oath and that on such examination, he shall be liable to cross-examination. The Statute which made it permissible for an accused person to be examined on oath was introduced in England in 1898 after fifteen years of controversy, but the circumstances of India are unfortunately very different from those of England. It should also be remembered that opinion was very much divided even in England. When the measure was under discussion, speaking on the Bill, Mr. Lytterson, M. P. said : "The very moment a man begins to cross-examine another, an atmosphere of heat is generated. How many men can engage in an ordinary argument on an important subject without showing warmth ? I think they are few in number. But what is cross examination ? In the argument conducted by men in public with all the excitement that publicity can give, it is done by a man who is exhibiting his powers before others which may afterwards employ him, and is it not too sanguine to expect that such a man would conduct a cross-exmination of a prisoner with that

calmness and moderation with which English prosecutions are now conducted ? May I give one quotation from the opinion of Lord Justice Collins who has allowed me to use his name in this matter ? My Hon. and learned friend has said that he did not believe that the Judge would be carried away by the duties imposed on them by this Bill. Allow me to read the testimony of one of the Judges on this point which, I am sure, will have a great weight. There is no Judge on the bench more respected, esteemed and admired than Lord Collins. He says :—My chief objection to the propotsed change is that I feel certain it will greatly alter the present rela ion between the Judge and the prisoner. It seems to me inevitable that if it should become the practice for the prisoner to give evidence in every case, the Judge will in most cases have to put questions in the nature of cross-examination himself. He has to do so now very frequently in cases under the Criminal Law Amendment Act. The counsel who conduct ordinary cases are frequently inexperienced and a crucial question often has to be put by the Judge. If this becomes the ordinary practice, as I think it must be if the proposed change be made, it must impair the prisoner's confidence in the absolute impartiality of the Judge which is so valuable a feature in our present system. It cannot but tend to alter the attitude of the Judge himself actually and apparently and I should regard this as a great public mischief and deprecate any change which might make it possible, unless I feel sure that the certain benefits would more than compensate." This is the opinion of a judge who has tried theseca ses himself and who has no prejudice one way or the other. He has had great experience of both systems. Is it not a deplorable thing for the Government of this country that the Ministry should seek to alter one of the most impressive functions of Government which now exhibits the Judge and the prosecuting counsel, at any rate the Judge not as the enemy, but as the friend of the poor and miserable ? Would it not be a deplorable thing that a system so generous and humane should be changed to one in which it would be the business and the duty of the Judge to put questions such as Lord Justice Collins suggests and as the result of which he would not appear to the poor and miserable in a criminal courts as a friend as he is now generally regarded but as an embittered enemy (Hansard vol. LVI 1898 pp 1015-1016.)

It must also be remembered that the Statute permitting the examination of an accused on oath did not extend to Ireland. The Irish members were as a body opposed to such extension and Parliament recognised the validity of their objection. The reasons for it were well expressed by Lord (then Mr.) Morley in a debate on the Criminal Evidence Bill when it was introduced in the House

of Commons in 1888. As they have a bearing on the circumstances of our case, I will quote them here. He said: "There was no difference of opinion as to the utility of the measure. They were all agreed that to allow prisoners to become witnesses when they wished to do so would be a humane and beneficent change, but he could not agree that all the reasons which existed for the application of the Bill to England must necessarily exist in the case of Ireland also. The Hon'ble and learned Solicitor General said that there was no distinction between the cases. The Hon'ble and learned gentleman had not dealt effectively with the argument of the Hon'ble and learned member for North Longford (Mr. T. M. Healy) that the atmosphere of an Irish Court was not supposed by the people of Ireland to be favourable to the prisoner. The argument of the Hon'ble and learned member for North Longford proved that there was all the difference in the world between the operation of a measure in courts like the English courts and its operation in courts such as the Hon'ble and learned member and his friends believed theirs to be. This was a Bill in favour of the prisoner but the Government were going to apply it in a country where it would inevitably be regarded, whether rightly or wrongly as being hostile to the prisoner. The effect of the measure upon Irish opinion would be very opposite of that which was justly claimed for it in England. The Hon'ble and learned member for Inverness (Mr. Finlay) had argued with great plausibility that the supposition that there was animus in the mind of Judge against the prisoner was all the more convincing a reason why they should give the prisoner a chance of exculpating himself by giving evidence. But it must not be forgotten that if the contention of the Hon. and learned member for North Longford were correct and if there was an animus in the mind of the Irish judge and strong animus in the prosecution counsel, the prisoners under this Bill would be exposed to the risk of bitterly hostile cross-examination and it will enforce on him very serious disadvantage. It appeared to him (Mr. John Morley) the sheerest pedantry to insist that because this was a wise and desirable change in itself and in this country they were therefore bound to force it upon Ireland against the wishes of her representatives and against the opinion of so staunch a partizan of the Government on the Opposition side as the Right Hon. and the learned member for Bury. The Rt. Hon. and learned member for Bury was free from suspicion of motive which attached to Irish members below the gangway and he had shown that he was strongly opposed to the change itself and on both these grounds his opinion was entitled to the greatest weight. Would Government insist upon extending the legislation to Ireland against the wish of all the popular representatives of that country and against the opinion of the

partizan of their own who was most competent to give an opinion upon that subject ?

He wished to underline the argument of the Hon. and the learned member for the city of Durham (Mr. Milvain) which he was surprised Government did not see the force of. They considered they were engaged on the difficult task of restoring law and order in Ireland. They had now got a state of opinion in Ireland much more favourable than it had long been to the maintenance of law, order and respect for administration of law. They must admit, therefore, that it was most undesirable politically to arouse fresh jealousy by introducing a single element of suspicion or irritation into the administration of criminal law in Ireland at a moment like this and yet they must equally admit that this would be the effect of the provision which, with deplorable tenacity, the Government insisted upon extending to Ireland. (Hansard Volume 324. 1888 pages 95/96).

The Rowlatt Committe have said no doubt only experienced courts should try cases under these conditions in order to ensure that the ignorant prisoner does not misunderstand his position and is not unfairly dealt with. This safeguard is ensured when cases come before three judges of the highest rank and upon the whole, we think, a provisions should be introduced—if it were a question of the general application we should, having regard to the above mentioned considerations, be against it. Read in the light of the observations I have quoted above these remarks of the Rowlatt Committee afford slender support to the proposal to introduce a change of so serious a character in an exceptional and admittedly repressive legislation.

I would omit Section 18. If the whole of it is not omitted, at least Clause A. should be.

PARTS II AND III.

I entirely dissent from the principle which underlies parts II and III. I have shown above that it was in the exceptional times of 1914/15 that Sir Michael O'Dwyer suggested that an exceptional and temporary measure should be passed to provide, among other matters, for the taking of security from the persons of the class affected by a more rapid procedure than that prescribed by the ordinary law. Those times have happily passed away and the Defence of India Act will still remain in operation for six months after the termination of the war. In my opinion after the termination of that period, reliance should be placed on the ordinary existing law to deal with persons of a dangerous character, the cases of such persons should be brought before a Magistrate and the procedure prescribed for dealing with them should be followed, this will leave to

the person against whom an order may be passed an opportunity of seeking the protection of the High Court in revision. Executive action should not be substituted for judicial forms of inquiry. If the Government cannot see their way to accept the recommendation made above, sections 21 to 25 should be so modified as to secure that the case of a suspected person will be referred to the investigating authority before any such order is passed against him as is specified in Clauses (a) to (e) of clause 21 (1) and that only such an order shall be passed as recommended by the investigating authority. If the Local Government will pass an order against a person and then refer his case to the investigating authority that will seriously prejudice his case. The enquiry should not be held in camera except when the investigating authority, in its discretion, should rule to the contrary. Pleaders should be allowed to appear to help the person whose case may be under investigation. He should also be at liberty to adduce evidence. The ordinary rules of evidence should apply to the enquiry, the report of the investigating authority should be binding on the Local Government, Clause 29 should be modified to provide that the investigating authority shall consist of two District and Sessions Judges and one non-official Indian who should preferably be a lawyer. Clauses 33, 34 and 36—mutatis mutandis. The same procedure should be followed under Part III as I have indicated for part II. I would omit 124—A from the schedule. Cases under those sections should be tried in the regular way. There are certain other amendments which are suggested but it is not necessary for me to note them all here. I will move such of them as I think fit in the Council.

Lastly I strongly recommend that the Bill should be re-published and circulated for opinion.

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The Rowlatt Bill No I.

(Criminal Law Emergency Powers Bill.)

Debate in the Imperial Legislative Council on Select Comm's Report.

Delhi—12th March 1919.

The Viceroy :—Before calling upon Sir William Vincent I think it would be well if I were to inform the Council of a ruling which I have given on the question of the necessity of members of a Select Committee who wish to put in a dissenting minute signing the report. I have had this matter examined and have found that it has been the usual practice in the work of this Council for all members of a Select Committee who wish to append a minute of dissent to sign the report, and the reason of this is obvious. The Council has a right to know that the correctness of the report, as an account of the Proceedings of the Committee irrespective of the differences of opinion upon its details, is undisputed and this can only be secured by the signature of the members. In the case of members desiring to put in a dissenting minute, their signature to the report means nothing more than this that they agree to the correctness of the report. This has been the established practice of this Council, and as the custodian of the usages and practice of this Council, I have no alternative but to rule that a member of a Committee wishing to put in a dissenting minute can only do so when he was affixed his signature to the report. I am aware that there is one exception to the practice I described, but on that occassion no question was raised and the President's orders were not taken. I can only regard this instance as the exception which proves the rule, but in no sense affecting the general practice of this council. Further, there is no precedent for a minority report being admitted for the simple reason that the principle of the bill is affirmed when the bill is referred to a Committee and so no question of principle can arise on the report. It goes without saying also that no member of a Committee can invalidate a report by refusing to sign.

I am aware that under rule 7, it is open to the President to take the opinion of the Council upon such point. The practice however is so clear that I do not propose to adopt this course and therefore I cannot allow any discussion upon it.

I note that the first three motions on the paper are based on the alleged incompleteness of the report. It follows, however, from the ruling which I have just given to the Council that the report is in no sense invalidated or rendered incomplete by some members refusing to sign or by the consequent exclusion of the minutes of dissent which they desire to attach.

The first three motions on the paper challenge the report on the ground of its incompleteness. It appears impossible for the Hon'ble Members to support these motions without challenging my ruling. I shall, therefore, have to rule these first three motions to be out of order when we come to them.

Sir William Vincent then moved that the Select Committee's report on the Criminal Law Emergency Powers Bill be taken into consideration. He said that he did not propose to discuss in any detail the various modifications in the bill. They were very clearly expressed in the Bill and very clearly explained in the report but there were some matters of first importance to which he would refer It would be in the memory of the Members of this Council that on the last occasion when this bill was under consideration the Government gave two undertakings in respect of this bill. The first was to convert it into a temporary measure and in the second place he had agreed to what was to his mind abundantly clear and apparent from the context, namely that the application of this bill will be strictly confined to revolutionary and anarchical crimes. In the third place he had promised to consider any other modifications in as far as he could accept them without rendering the bill ineffective for the purpose for which it was enacted. He could now say that all the three undertakings had been amply fulfilled. The operation of the act was now limited to three years. Then again the opening section of the preamble and other parts of the bill indicate most clearly that the application of the bill was restricted to movements to the character of which he had already referred. Then, again, in deference to their wishes they had made a number of substantial modifications in the bill. The Government regretted that they could not go further to meet the wishes of Hon'ble Members. They trusted that the members who were in the Select Committee would admit that Government had approached this case with the greatest care and had displayed the most reasonable attitude towards the suggestion of the Hon'ble Members. If it had been possible to meet the Hon'ble Members

further no one would rejoice more than himself, but there were responsiblities on the Government of India for peace and tranquility in the country which they could not subordinate to any other consideration. While he was on this he would advert to the insinuation that there was some form of compact or agreement between the Government and some Members of this Council. His duty was to repudiate that suggestion in the most emphatic terms. The Government always desired to obtain the co-operation of the Hon'ble Members in enacting measures, more so a measure of this kind on which depended the welfare of this country. If modifications made in the Select Committee has secured the support of one of the Hon'ble Members Government will be more than pleased, but there never was a question of agreement or compact between the Government and some of the Hon'ble Members. To his mind it was much to be regretted that any suggestion of that character should have been made. He wanted the members to believe that the Government were perfectly sincere in their conviction that there was absolute need to enact this measure. There was no Machiavalian plot to create political agitation in the country, nor was there any intention to frustrate or defer the advent of reforms. His Excellency as one of the authors of the reforms report, would be the last to allow the introduction of this bill, had there been any such plot or intention. On the other hand, the Government desired to safeguard India from the results of the movement which had done so much in the past to discredit the loyalty of a great body of the citizens of the country. Finally, he wished to make clear that this bill would not come into general operation. It could not be applied indiscriminately all over India. It would come in operation only by proclamations by the Governor-General-in-Council in places where anarchical movement was prevalent and even there it could not be used in any way to attack the liberty of law-abiding citizens. It could only be employed against the criminal whose activities were a menace to the whole state and even in dealing with this criminal every effort was made, so far as they could, to see that no innocent man suffered and to safeguard that no innocent man was being touched under the provisions of the law.

Validity of Report.

H. E. The President called upon Messrs. Patel, Khaparde and Sukul to speak on points of order relating to the notices of amendments they had given to the effect that the Select Committee's report was incomplete and invalid. Both Messrs. Patel and Khaparde spoke. Mr. Sukul declined in disgust to raise his points.

His Excellency the Viceroy said that the first three amendments according to his ruling were out of order. Mr. Patel wished to be heard before his motion was ruled out.

His Excellency :—You must not discuss my point of order.

Mr. Patel :—The motion I have given notice of will not touch Your Excellency's ruling. I will not question Your Excellency's ruling. I will discuss it from a different point of view.

He then moved his amendment as follows :—That the so-called report of the Select Committee is both an incomplete and invalid document and it be therefore cancelled.

Sir George Lowndes rose to a point of order saying that the Hon'ble member had already infringed His Excellency's ruling by moving an amendment which regarded the report of the Select Com-Committee as incomplete.

His Excellency said he was waiting to hear what Mr. Patel had to say. If he said it was incomplete in the fashion he (the President) had ruled it, he would rule him out of order.

Mr. Patel said in his humble opinion the report of the Select Committee was invalid and incomplete. At the first meeting of the Select Committee two preliminary points had been raised. The first was that the Select Committee should recommend to the Council that the bill should be dropped. The second was that the Select Committee should recommend to the Council that it was not in the competence of the Council to pass such measure. The Chairman of theSelect Committee gave his ruling that the Select Committee had no power to discuss the principle of the bill, but they would only recommend changes in details of the bill. With due deference to the Hon'ble Law member he would submit that his ruling was wrong.....

His Excellency : I have already ruled on the point that you cannot discuss the principle of a bill in the Select Committee. The ruling is as old as 1866 when Sir Henry Maine made it clear that in the Select Committee only the points of detail could be considered.

Mr. Patel said the second question raised was whether it was in the competence of the Select Committee to recommend to the Council that the Legislative Council of India had no power to enact such a law.

His Excellency ruled this point also out of order and said that the Select Committee were the servants of the Council. The Bill was referred to them to report on details and not on the competence of the Council to pass it.

Mr Patel said he had nothing further to add.

His Excellency said Mr. Patel had not convinced him that his amendment was not out of order, and he must rule it out. He asked Mr. Khaparde if he wished to say anything about his amendment.

Mr. Khaparde also said that the report was incomplete. It stated that certain amendments were moved at the meeting which in the opinion of the Chairman were destructive of the principle of the bill and he had therefore ruled them out. These amendments were not mentioned in the report of the Select Committee. He submitted they should have been included so that the Council could judge whether the amendments were destructive of the principle. He submitted the report was therefore incomplete.

His Excellency :—It is the same point put in a different way. I do not wish to interrupt you but I wish to appreciate your point before I rule you out of order.

Mr. Khaparde said the report of the Select Committee should include all that took place in the committee.

His Excellency :—I am afraid Mr. Khaparde, I cannot agree. It was ultra vires of the Committee to discuss the principle of the bill. The Chairman had ruled out certain amendments which touched the principle of the bill. I have laid down just now that it was beyond the competence of the Committee to discuss the principle of the bill. That was settled when the Council in their wisdom referred the bill to the Committee. I am not prepared to discuss the ruling of the chairman of the Committee. He was fully within his powers to do so. If this is all you have to say I must rule your motion out of order.

Mr. Shukl having nothing to add his motion was also ruled out of order.

Mr. Banerjee's Amendment.

Mr. Banerjee moved the following amendment :—That the Select Committee's report together with the bill and connected papers be referred to Local Governments, High Courts and public bodies for criticisms.

In doing so he repudiated the insinuation that there had been a compact with soms section of the House and the Government. He said that upon the point raised in the amendment the non-official members of the select committee were unanimous, and he was sure the non-official vote of the Council would also be unanimous. In a matter of that kind, Indian opinion ought to go very far in determining the action of the Government. The proposed Legislation would affect the people and the people only. They were as deeply

interested as the Government could be in the maintenance of law and order and in the eradication of anarchical and revolutionary movements. They had been the greatest sufferers both in respect of life and property. Revolutionary movement was a menace to their political progress and was a blot upon their name, fame and reputation as a law-abiding people. They realised the gravity of the situation and the measure of responsibility they assumed in advising the Government to pause and wait. The Government, however, had not been quite insensible to public opinion and had shown their partial deference to it by making the bill temporary and restricting its scope to anarchical and revolutionary crimes, and by modifying its provisions. But that was not enough and in a matter of kind involving restriction of public liberties the Government should receive further light and guidance from High Courts, Local Governments and public bodies. There was no reason why the bill should not be postponed till the autumn sessions just like the second bill. The Government already possessed emergency powers which were more drastic and more summary. Referring to the growing volume of agitation, he said that if his safe suggestion was acted upon, the agitation would be allayed. All life would then have departed from it. It would be feeble, dead. Agitation and public temper would have been placed in a more conciliatory mood. He claimed to know something of agitations and said when the history of the time came to be written if they at all remembered him, they would paint him as the most obstinate, the most incorrigible of agitators who would not acquiesce in the doctrine of settled fact. He referred to his association with the Partition of Bengal agitation and said the passing of the bill at the present session of the Council would produce the same results and instead of allaying the agitation already started, it would intensify it. He asked the Government to give people time to let them think over the matter, to let responsible public bodies to record their opinions, to let the High Courts give their judgment, and the Government would have helped to create a calmer atmosphere.

Another important consideration in support of his amendment was the forthcoming introduction of the Reform Bill in Parliament. If it turned out to be a satisfactory measure that would help to create an atmosphere favourable to the dispassionate consideration of the present bill. The Sydenhamites were taking the fullest advantage of the Rowlatt report and they may block the reforms. The Government had an effective weapon in the Defence of India Act for the time being and could say they had fortified themselves with a bill which was under the consideration of the Imperial Council. Indian opinion may have a profound influence

in determining the trend of English opinion. If as a result of passing the bill this sessions intense and widespread agitation was started, the reactionaries in England may say, "let the agitation cease and then there will be time enough to pass the Reform bill." Therefore, in the interests of the reform scheme also to which they were pledged, Government should accept the amendment. It would be no sign of weakness but of strength. It would be the expression of deferential attitude towards dissipate public opinion which would gratify all. It would help to the cloud of suspicion and mistrust which hung thick and dark over the public mind of India. Above all, it would be worthy of the great Government about to enter upon a new period of responsibility in conformity with its own gracious message and the immemorial traditions of British rule in India.

The Hon'ble Dr. Sapru in suporting the amendment said that he could not shut his eyes to the wording of the preamble of the Bill. If the Criminal Law as it stood at present was inadequate and if the existing machinery had broken down, the best people to advise on these points were the very persons who administered law from day to day. They would be able to say if the present state of law was insufficient or if the legislation proposed went much further than necessary. If the Judges agreed in regard to the necessity of the present Bill then the position of Government would be infinitely stronger. He did not see any justification for hurry.

The Hon'ble Maharaja of Kassimbazar in supporting Mr. Bannerjee's amendment said that his conviction was that if the Select Committee's report was referred to the Local Governments and High Courts and to public bodies for considered and matured criticism the Bill would stand the chance of being considerably improved. Time was a great healer and if the Bill was put off for consideration till the next session the country would forget and forgive many things.

The Hon'ble Mr. Shukul supporting the motion said the Government ought to be aware of the storm of opposition which the Bill had raised in the country. He felt sure that nothing was to be lost by republication. There was no reason for unnecessary hurry.

The Hon'ble Mr. Khaparde said that much was to be gained by a prolonged discussion of the Bill and strongly supported the motion for republication.

The Hon'ble Mr. Shafi supported Mr. Bannerjee's amendment for republication of the Bill and acknowledged the conciliatory attitude of the official majority in the Select Committee. He supported the motion because the Government did not observe the procedure of publishing the Bill in official gazettes. Secondly because it was not

proved that there was any emergent necessity for the measures. If that had been proved he would have supported the Government He referred to a resolution moved in the Bengal Legislative Council recommending the release of the internees which was rejected, and said that the people of the country were ready to support measures of which the necessity could not be disputed. He said he did not remember any Government measure having been so emphatically and unanimously opposed by non-official members.

The Hon'ble Mr. Chanda said that he had a similar motion in his name, and he would like to speak on the present motion and withdraw his own. He did not see the beauty of Mr. Shafi referring to the Bengal Council resolution moved by Akhil Chandra Dutt. It had no bearing on the present motion. His main ground for re-publication was that there had been many substantial changes made in the Bill by the Select Committee, and he quoted several clauses from the Bill as amended by the Select Committee in support of his contention.

The Hon'ble Rai Sita Nath Roy strongly appealed to His Excellency to postpone consideration of the Bill till the next session. That he held was a very small concession to public opinion which would not be looked upon as a sign of weakness on the part of Government.

The Hon'ble Mr. Patel said that he thought His Excellency's announcement that the Council would sit again after six in the evening showed that the officials had decided to pass the Bill with their standing majority. He supported Mr. Bannerjee's amendment as it would defer the evil day and delay may bring about some change in the attitude of the Government.

The Hon'ble Mr. Sarma in supporting the amendment asked if Government would be prepared to allow the Government officials to vote as they liked. Past experience had taught him that non-officials could only influence either in Select Committee or before the bill was introduced. The Government themselves should consider the Bill in the light of the suggestions received from the Local Government, etc. Every opportunity should be given to Judges to show if the existing machinery had failed, and if so in what respect.

The Hon'ble Pandit Malaviya in supporting the amendment said that Sir William Vincent had asked them what had happened since the introduction of the Bill for all this change of view. He referred him to the happenings in connection with the Select Committee's report. The opinion of all the members were not before the council and such opinions that were before it radically differed. That was why the Seleet Committee's report should be

circulated for opinion and republished. Government was not right taking in advantage of rule 23 in a contentious and important Bill of that kind. He drew the attention to the existence of rules in Provincial Legislatures relating to Select Committee reports (Punjab, Bombay) in support of his contention that the present Bill ought to be published.

Another thing that had happened since the introduction of the Bill was the tremendous opposition they were witnessing when a saintly man like Gandhi was taking the lead inthe passive resistance movement. That was a matter for Government to ponder over. The opposition was deepening. The Government had at present power to override it, but that was not wise. He asked if the Government would not gain in moral strength if it gained the support of non-official members, at least a majority of them. Pandit Malaviya then referred to the Irish Act and said whereas that act required concurence of all 3 Judges for conviction, the present Bill required the concurrence of only the majority.

Mr. Ironside said he had listened to a great deal of eloquence, but he could not help feeling that many of his friends had failed to adduce any argument which would carry conviction to his mind. He did not think that any one had questioned the position taken up by the Government in the matter. One special pleading had been that more generosity from the Government was still needed. Now up to a point generosity and justice was necessary, but beyond that point generosity and justice was merely suggestive of weakness, which might be taken hold of by supporters of the movement against a generous Government. Mr. Bannerjee had told them that the Bill affected but a small and unimportant section of the community and he for his life could not understand why there was this extraordinary fear by the greater and saner section of the community which Mr. Bannerjee represented. It had been suggested that the Bill should be referred to the High Court. Now he might be wrong, but he had always been under the impression that the High Court read law which had emanated from that Council, and he asked was this council to form or make laws or the High Court? If the High Court were to tell them what they were to do, what was the use of this Council? Then they were told by Mr. Bannerjee that time was a great pacifier. From his experience of this country he had not any great faith in this idea of his Hon'ble friend. Then it was stated that this wicked measure was introduced by the Government to endanger the future of reforms. He was holding no brief for the Government but he refused to believe that there was one man in the service of the Government

of India who would so endanger the good name of Britain, the good name of the service to which he belonged, to think of such an idea as that. Personally he believed if this Bill had gone through, it would have gone a long way to assist the scheme. Then question of public opinion had been raised. In Calcutta he had an opportunity of discussing this matter with several Indian friends, for whom he had the greatest respect, and whom he was prepared to meet as equals anywhere and these people were of opinion that for the sake of the people of Bengal and for the sake of the saner proportion of the community the Bill must be pushed through.

Mr. Jinnah said that in answer to Mr. Ironside he would say the reason why they wanted postponement and reference outside was the peculiar constitution of their legislature. He did not believe that members of the type of their Law Member and sir Sankaran Nair and Sir George Barnes could possibly have in their heart of hearts liked the measure. He did not doubt the sincerity of the Government but Mr. Ironside forgot that the Government, as at present constituted, had no check whatsoever. They found that the Governor General in Council with an official majority at their back had decided that the Bill should go through. They found that the non officials had decided to oppose it. Were the Government wrong, or were the non-officials wrong? Had non-officials gone mad that not a single member supported the measure? Were they wrong in asking the Government to stay their hands? The atmosphere in the Council chamber was surcharged with this spirit that the Government were determined to carry through and the non-official members were determined to oppose it. Was that not a situation that needed to be solved? The best thing was to get outside help. If Mr. Ironside was right in saying that Indian gentlemen told him they wanted the Bill in Bengal for the sake of sober people, they would hear that opinion. If they got such opinion would not Government's hands be strengthened? Mr. Jinnah said that the Law Member shook head. He had the greatest regard for the Law Member and he did not like to say anything against him but he would say this: he (the Law Member) was still an advocate and once he took up a cause he was an advocate and nothing but an advocate. He was surprised to hear Mr. Ironside, a Britisher, saying that the Bill was admittedly meant to apply to a small and wicked section of the community, and why should bigger and saner section take up this attitude. He would ask Mr. Ironside to study the history of his own country. Mr. Ironside's countrymen had fought and shed their blood since the time of King John for the principle that no man's liberty must be taken away without trial. It was not the wicked they wanted to protect, it was the innocent for whom they were pleading. If they were determined to carry the

measure through, all he would say was that he for one believed the consequences would be most unfortunate. It was said that if time were given agitation would grow worse. How could it be worse? At the present moment the agitation was at its height. The Law Member had said that the agitation would be what the politician choose to make it. If the Law Member had any experience of public life in this country the speaker was sure he would not have said this. In this connection he said he had received a telegram from the non-official members of the Bombay Legislative Council signed by Mr. G. K. Parekh, the mildest of mild men he had come across, saying that their association had unanimously resolved to request the speaker to express the most emphatic protest against the Bill. Referring to Mr. Ironside's remark that concession to public opinion on this point would at once be taken as a sign of weakness, he said it was a monstrous suggestion to make. He thought this argument was brought in to stiffen the back of the Government. In conclusion he begged the Government to consider this question. Did the Government doubt their sincerity? Did the Government think they were opposing the measure for the sake of opposition? Did the Government think they (Government) had the welfare of this country, and they had not? Did they think that he wanted revolution and they did not? Did the Government think he wanted disorder and they not? He had got up purely for the sake of convincing Mr. Ironside and he would now say if he (Mr. Ironside) were standing in the speaker's position and if he understood the Bill and if he had been brought upon the tradition of Great Britain, he would do the same.

The Hon'ble Mr. V. S. Srinivasa Sastri said Mr Ironside had suggested if the Government yielded on this occasion it would be a sign of weakness He thought that if the Government yielded in this matter it would not be weakening but strengthening their position. Instances in point were the Government's decision regarding indentured emigration, and publication of reforms report which had gone a great way to calm the situation. The vital issue was how were they to deal with anarchists and in this connection he would point out to Mr. Ironside that the principal feature of love of liberty was love of liberty for others. With regard to extending the Defence Act by Ordinance he said these measures carried on their character of being emergent. He thought by postponing the measures there would be a great moral gain to all. He would consider it a great blessing if the Government were induced even at this last moment on political grounds to agree to postponement. With regard to the argument about the reforms he said it was ominous that the Government of India showed so much anxiety to conciliate English opinion that was so unjust and so uncharitable. He submitted there was no urgency in the matter. Emergency had

already been coped with and the Government were well armed to meet any difficulty of this kind. He supported the amendment.

The Hon'ble Mr. Aiyangar said that he saw no reason why the Bill should be hurried through. The considered opinion in the country was growing against the Bill. The Council was not the proper place to condemn or sit in judgement on the passive resistance movement as has been done by one member. He drew the attention of the Council to the decision of Lord Loreburn's committee which arose out of a suit against the Secretary of State.

Sir William Vincent speaking on behalf of the Government said it was to his mind a matter of great regret, and he spoke with great sincerity, that the Government were unable to accept the amendment. He regretted because of the support it had received from a number of members who were frequently able to co-operate with the Government. The question of the urgency of the legislation of the measure was debated at great length when the Bill was introduced and referred to the Select Committee, and he should like to know what had happened since than to reverse the decision not to postpone the measure. Had the Bill been materially changed and made more drastic? Mr. Chanda had said there was radical amendment of Clause 20. He thought it would be time enough to deal with the matter when specific amendments came up for discussion, but no member could suggest that the Bill, taken all in all, was not modified and that in the sense of making it less drastic than before. He submitted there existed no reasons now for republishing the bill which did not exist at the date of the first reading. Sir William then dealt with various criticisms of the members. The first suggestion he said, was that the public feeling was much agitated, and there was the prospect of passive vrsistance. He did not wish to deal with this question of passive resistance, but he was glad to see some members of this Council had repudiated the idea and did their best to discourage the movement. It must be a matter of regret that a man of Mr. Gandhi's character had lent his support to it, but he did not think the members of this Council should suggest that the attitude of the Government of India should be affected by threat of this character. Mr. Bannerjee had taken a different line. He had said ;—If the measure were postponed the agitation would be less formidable. He wished he could believe that that were so Dr. Sapru had taken a different view. The more the Government yielded in the matter the greater the force the agitation would take. He would not take that as the reason against the amendment. Another argument was that the Government had consented to republish the other bill and therefore they should take the same

course over this Bill. The answer to this was very simple and very short. The other bill was entirely different. It was a permanent piece of legislation and it stood on an entirely different footing. Another argument suggested was that the passing of the bill might prejudice reforms. He thought he did not need to say anything more on the subject. It was frequently said that Government did not believe this action could prejudice the advent of reforms. They believed on the other hand that failure to deal with revolutionary crime would impair the chance of political progress in this country. On the last occasion he told the Council what the actual position was. For the time being the movement was checked, but if the powers the Government possessed were removed he ventured to say that there would be such recrudescene of the movement and such discouragement to and disheartening of their officers, that the result would be disastrous to the peace and good Government of the country. The revolutionary movement was not dead and the measure was one of greatest urgency. On the last occasion he had read extracts to show what the intentions of the anarchists were. Then it was said that they had failed to consult local Governments, and also to ascertain public opinion. Now they had really had the best opinions on the measure. From one year before the war they had been discussing with the Local Governments the desirablity of passing similar measure. Had the war not intervened they should have had to pass special legistation to deal with this sort of crime earlier. It was not fair to say that they had not consulted local Governments fully and comprehensively. As a matter of fact the recommendations of the Rowlatt Committee were circulated to the Local Governments and had received their opinions on it, and they had also consultations with the leading officers sent by Local Governments. With regard to the opinions of public bodies, the Rowlatt Report had been public property for eight months, and every public body had ample opportunity to express its opinion. There had been no lack of criticism from public bodies, and he had received numerous criticisms. It was true they had not got the opinions of High Courts. On the other hand they had opinions of a number of judicial officers and the committee from whose recommendations the Bill was drafted consisted entirely, with the exception of one, of professional lawyer and another of judicial officers. The Bill was not hatched in the Chambers of the Secretariat nor did it emanate from bureaucratic civilians. It had emanated from a committee of three Judges, one Indian lawyer and one official, and it could not be said that judical opinion was not taken. The Government were not pushing this bill through with a light heart. Their reasons were that peace might be made at any movement and after that

the Government wished to be in a position not to make use of measures which were intended merely for the period of war. The Government had been accused of using emergency measures of war unfairly and the force of that accusation would be redoubled if after the conclusion of peace those measures were used. Moreover the Government could not take the risk of there being a gap between the date up to which the Defence of India Act would remain in force, and the date on which new legislation would come in force. Sir William then referred to the argument about the power to promulgate ordinance and observed that when the Defence of India Act was passed Sir Reginald Craddock had given an undertaking that the act would remain in force during the war only and the Government now might very well be accused of breach of faith.

Mr. Bannerjee in reply acknowledged the concilliatory speech of the Home Member, but he had not been able to meet the criticisms. The Local Governments had not been consulted, the opinion of the High Courts had not been sought, and public bodies had not been asked to submit their opinions. The Calcutta High Court specially deserved to be consulted, for that Court had the greatest experience of such cases. The situation had improved and it was not proper to legislate on an ancient report published a year back. He referred to the remarks of Mr. Fagan and said that he was proud that the representative of the province of the Punjab had said that the members of the Council represented the quintescence of the wisdom of the country but even Solomon was liable to make mistakes when deliberating on imperfect and insufficient materials. He took exception to the argument that concession to public opinion would be considered a sign of weakness on the part of the Government. He was sure if the Government yielded to popular opinion that would be considered to be a sign of strength not weakness. He hoped that the Government would reconsider the question and accept the unanimous opinion of the Indian members.

Amendment lost

The amendment was put to the Council and lost. Mr. Banerjee calling for a division the votes were recorded as follows :—For amendment 25 (all non-official Indians voting), against it 36.

Similar Amendments.

The Council reassembled at six. The Viceroy continued to preside. Mr. Chanda withdrew his amendment which was to the effect that the Bill as amended by Select Committee be republished and circulated for opinion of, among others, High Courts and Chief Courts. Mr. Khaparde's amendment for republication of the bill and Mr. Iyengar's amendment for referring the Bill inclu-

ding the minute of dissent by Pundit Malaviya and Messrs. Khaparde and Patel to the Local Governments for opinion were rejected.

Mr Chanda's next amendment "that the revised Bill be recommitted to the Select Committee with instructions to report to the Council during the next Simla session" was rejected by 37 to 15. The loss of this amendment automatically set aside Mr. Chanda's next amendment which was to the effect that Sir Claude Hill, Sir Sankaran Nair, Messrs. Jinnah, Sarma and M. Haque be added to the Select Committee.

Mr. Patel next moved that the Select Committee's Report be taken into consideration with the addition of these words "this day 1921." This was he said a very reasonable demand in view of the Government's determination to pass the bill and not abandon it.

Sir William Vincent said that this measure was one of great emergency and he could not accept the amendment which was rejected by 37 to 10.

Mr Khaparde next moved "that the Bill be not taken into consideration until the Governor-General-in-Council receives from Parliament an express authority by an act of Parliament to pass it."

He said that the Indian Legislature was a subordinate legislature. He referred to the Government of India Act of 1916, Sections 32 and 65, and held that the Government of India had not the power to enact a law like the one before the Council, unless especially empowered to do so by Parliament, as it affected the allegiance of British subjects in India.

Sir George Lowndes dwelt at length on the point whether the Government of India had power to legislate which was questioned by Mr. Khaparde. He maintained the Government of India had full powers and said that Mr. Jinnah had only referred to the minority judgment of Lord Shaw.

The Amendment was rejected.

Original Motion Passed.

The motion that Select Committee's report be taken into consideration was adopted. The Viceroy congratulated the Council on the admirable temper throughout the debate on this very controversial subject.

Debate on the Amended Bill.

Delhi—13th March 1919.

His Excellency said before they proceeded with further discussion of the Bill he would inform the council of the procedure he intended to adopt. The Bill would be considered clause by clause and when an amendment to a particular clause was moved a question would be put whether the clause or the clause as amended formed part of the Bill. He said there was no amendment relating to the preamble and he therefore put the question to the council whether preamble do form part of the Bill. The motion was agreed to.

Mr. Chanda moved the following amendment to Cld. that after sub-clause 2 of clause I, the following sub-clause be inserted 2 (A) :—This Act shall not come into force till six months will have elapsed after the formation of the new Legislative Council in accordance with the reform scheme, provided however that if anarchical and revolutionary crimes become prevalent in any part of British India before that, the Governor-General may with the consent of the Legislative Council make a declaration to that effect in the Gazette of India and introduce any provisions of the Act or if necessary the whole act in such part. He called the law extraordinary as it tended to empower the executive with judicial powers and held that in the case of such an extraordinary law it would be only proper to consult them to make a declaration.

Sir William Vincent was unable to accept the amendment which was opposed to the spirit and provision of the Bill that the details of the administration need not be referred to the Council.

The amendment was lost.

Mr. Chanda next moved that the duration of the act be for one year and that from the date of its commencement. He said one year was quite sufficient

Sir William Vincent said the Government could not agree to the amendment. There were many who thought that the period of three years was inadequate.

Pundit Malaviya thought three years was too long a period and if the evil existed after the expiration of one year the Government would still be in a position with its official majority to extend the operation of the Act.

The amendment was negatived,

Mr. Patel moved that the duration of the Act be for one year and it should come into operation from the date of the passing of the reform Bill in the Parliament. He said if necessity arose the operation of the Act could always be extended as His Excellency knew there was no real urgency, and he therefore suggested that the Act might be passed now, but its operation withheld till the reform Bill was passed.

Sir William Vincent in opposing the motion said he had endeavoured to make it clear that the measure was of the greatest urgency. The present argument was inconsistent with the previous argument that there would be no necessity for this measure after reforms were introduced. With regard to the period of duration the Government were satisfied that three years was the minimum.

The amendment was negatived and Clause (1) was passed.

On consideration of Clause (2) **Mr. Sarma** moved that the following definition be inserted in the clause :—Revolutionary movement means movement directed to the overthrow by force of His Majesty's established Government in India. He said the matter was not so simple as some imagined and it was necessary that the legislature should define the movement they wished to suppress. He was apprehending the danger that some official might think a particular movement revolutionary.

Dr. Srpru in supporting the amendment said it seemed to him the amendment was consistent with the avowed object of the Bill and declared the policy of the Government. It would assure the public mind, for no one would say that the Bill might be abused. Mr. Sarma's definition brought out very well the meaning of the movement.

Mr. Chanda in supporting the amendment said though he had seen the necessity of the amendment he had not given notice to move it as he was afraid his list of amendment was too long.

Pandit Malaviya also supported the amendment. He said unless a definition was given the language was liable to be misconstrued and it might lead some petulant Governor to take action which might not commend itself to sensible men. He thought it was necessary to put the matter beyond doubt.

Sir George Lowndes said it was at the express and unanimous request of the non-official members in the Select Committee that the word revolution was inserted in the Bill. The word was not defined because it was not a legal or technical expression and they could not translate the dictionary in the Bill. When a petulant Governor wished to ascertain the meaning, he would find that it

meant either an attempt to overthrow by force the Government established by law or the action of a celestial bodyin moving round a particular orbit !

Mr. V. S. Srinivasa Sastri admitted that the word was inserted at the instance of himself and his friends. At that time he was unaware of the ordinary meaning but as it was pointed out now, it might include peaceful revolutions. People would be frequently found to use the word in the innocent way, for example, in the recent political debates the Montagu-Chelmsford report was described as revolutionary, the Congress League scheme was described by a still larger body of men as revolutionary. He saw no harm in defining the word in the Bill.

Mr. Surendranath Bannerjea associated with the remarks of Mr. Sastri. He said the amendment did not interfere with the scope of the Bill and made the object of the Biil more transparent and clear.

The Hon'ble Mr. Shafi and Mr. Jinnah further supported the amendment.

Mr. Shafi said that we know that expressions even clearer than these have been differently construed by different High Courts. Mr. Jinnah said that though the word has been accepted in the Select Committee, were they not in the Council entitled to point out something new when there was a flaw? The point for the Council to consider was "was the clause right or not", and it did not matter that Government Members have accepted one term in the Committee.

Sir William Vincent replying for the Government said it would be more considerate to the Government if points like these were raised in the Select Committee. To the ordinary man in the street the meaning of the word revolutionary was clear. If members saw the Bill they would find the word was used in connection with the word anarchical and was therefore incapable of misconstruction. It could not be applied to any but a criminal movement. According to clause 3 Part I was to be applied if the Governor-General in Council was satisfied that anarchical or revolutionary movements were being promoted, and that scheduled offences in connection with such movements were prevalent. That indicated sufficiently the character of the word revolutionary. The word might be used loosely by partisan newspapers, but it did not follow that responsible authorities would place any but accurate definition upon the word. Then again under the Bill, the authority to describe what the word revolutionary meant was not the Court but the Governor-General in Council, and it had never been suggested and he hoped it would never be suggested that the Govern-

ment of India were not bound by the authoritative statements made in their behalf in this Council.

Mr Sarma in reply urged again that no harm would be done in inserting the definition in the Bill.

The amendment on being put to vote was negatived, and on division being taken at the instance of Mr. Patel it was declared lost by 33 to 18.

Clause 2 passed.

Mr. Patel moved that the whole of part one of the Bill be deleted. He said the object of this part of the Bill was to obtain speedy trial. Here the authors of the Bill had lost sight of the Criminal Amendment Act of 1908. The only difference between that Act and the present Bill was that commitment proceedings were provided for in the former. He thought this chapter was unnecessary.

Mr. Jinnah said if the object was to obtain still speedier trial the proper course was to amend the existing Act. If that was the object of the Government he assured the Government of greater support of the council. He could not understand the object of the Government.

Pandit Malaviya supported Mr. Patel's amendment. He thought they were moving in the wrong direction. Even the Irish Coercion Act did not seek to provide for speedy trial, but it provided for fair and impartial trial. The Government, he observed, should shudder to think of consequence of speedy trial if that trial was to end in the obliteration of a fellow being.

Mr. Sarma suggested that either the Act of 1908 should be repeated or amended to bring it in line with this part of the Bill.

Sir William Vincent said the gist of the point raised was that they had the Act of 1908, but the answer to that was pretty simple. Procedure under the Act of 1908 was entirely different from the procedure to be adopted under this Bill. After pointing those out the Home Member went on to say the Act of 1908 was in some respects wider. The existence of certain circumstances were not conditions precedent to the institution of proceedings under the Act of 1908. He repudiated the insinuation of Pandit Malaviyia that fair and impartial trial would not be obtained. In conclusion he said had this Act been made permanent it was the intention of the Government to repeal the Act of 1908 but even now the Government would have to consider that question.

Mr. Patel having replied the amendment was negatived.

Council then adjourned for lunch.

Mr. Khaparde moved that the notification to be made to

apply Part I of the bill should be made by the Governor General in Legislative Council instead of Governor General in Council. Mr. Khaparde said his amendment arrived at a formality which was calculated to reassure the people. It would give an opportunity for a public explanation as why the Government was taking action.

Mr. Patel, said that the next amendment which stood in his name was somewhat similar and he would like to support Mr. Khaparde. He asked the Government to share the responsibility with representatives of the people.

Sir William said this amendment and some others which followed raised constitutional questions of importance. This was an attempt to control the executive in matters of detail by legislature. Parliament did not interfere in details of administration. A deliberative body could not deal with the details of administration and was concerned only with principles. The responsibility for carrying out details should always remain with the executive. What was true of the Parliament was much more true of Indian Legislative Councils. Apart from this constitutional objection there were practical objections also. The necessity for bringing into operation a part of the act might arise when Council was not sitting. It might be argued that the Council might be summoned when required. That the Home Member said was difficult to work in practice.

He opposed the amendment which was put to the vote and lost.

A similar amendment moved by Mr. Patel was also lost.

Mr. Sarma then moved an amendment that the act should not be applied before opportunity was given to the Imperial Council or to the Council of the province to which the act was to be applied, and that notification of applying the Act should be withdrawn after one year on the recommendation made by three fifths majority of either Council. Mr. Sarma said there was no question of interfering in matters of detail. What it really meant was that they were vesting the executive with extraordinary powers subject to certain limitations. By passing this amendment the Council would be giving an opportunity to the public at the end of one year of stating their case. The executive would still have to issue another notification in respect of the area should necessity arise.

Sir William Vincent opposed the motion. The only difference he said, between the last amendment and this was that here the Hon'ble Member wished that the action of the Governor General in Council should be controlled by provincial legislature. The effect of the second part of the amendment was to give mandatory effect to the resolution which was opposed to rules and statute. He added that the Government of India were at present responsible to His Majesty's Government and not to the Indian Legislature.

The amendment was negatived and clause three stood part f the bill.

Mr. Chanda moved for the addition of a provise to clause (4) to the effect that the Chief Justice on information being filed before him should call upon the accused to show cause why his trial should not be held under this Act.

Sir William Vincent said this step would not contribute to speedy trials. The accused would be placed before a very impartial and strong tribunal, and besides, the Chief Justice would not be in a position to know the grounds of the State which make it expedient to hold a trial under this act.

The amendment was lost.

Mr. Chanda next moved for the addition of a sub-clause to the effect that the Chief Justice may order production of an accused before him and may grant bail.

Sir William Vincent said if this amendment was withdrawn he would move another to clause 19 which gave powers to the Chief Justice to make rules the effect of which would empower the Chief Justice to grant bail.

Mr. Chanda withdrew his amendment. Clause (4) stood part of the Bill.

To Clause (5) **Mr. Sarma** moved an amendment that the tribunal should consist of three permanent Judges of the High Court instead of three Judges of the High Court. Mr. Sarma said to inspire confidence of the public they should have permanent Judges and not officiating Judges. If they were put on the tribunal suspicion might arise that the Judge was appointed to try this particular case.

Dr. Sapru in supporting said the charm about a Judge of the High Court was not that he was abler but because he was thoroughly independent. A permanent Judge had no favour to expect and no frowns to fear. It was unfair to the accused to be tried by Officiating Judges yet to be confirmed.

Mr. Bannerjee further supported the amendment.

Sir Verney Lovatt said the Rowlatt Committee never for a single moment intended to convey that officiating Judges should not be appointed.

Sir William Vincent said they had followed the recommendation of the Rowlatt Committee. The Government were not choosing Judges but the Chief Justice was, and by passing this amendment they would be casting reflection on officiating Judges to which he for one would not be a party.

The amendment was lost.

Mr. Khaparde moved a long amendment providing for appeal and constitution of a court of appeal which was to be of five Judges other than those consisting the special tribunal. Mr. Khaparde said this provision existed in the Irish Coercion Act and there was no reason why this provision should not be inserted here, and the question of speedy trial would not arise in this case.

The Hon'ble Mr. Shafi here pointed out that the proper clause to which this amendment could be moved was Clause 17.

His Excellency asked Mr. Khaparde to first establish his court of appeal and in that case there would be no difficulty in constituting that court.

Mr. Khaparde obtained leave to move it as an amendment to clause 17. Clause (5) then stood part of the Bill.

Debate on the Amended Bill

Imperial Council, Delhi, 14th March '19

His Excellency at the outset said it would be for the convenience of the Hon. Members if he informed them that he proposed to sit until the amendments on the agenda were disposed of. There would be one hour's interval for lunch at 1-15, half an hour's interval at 5 for tea and he would adjourn again for an hour and a quarter at 7-45 for dinner. His Excellency said he regretted this pressure on the Hon. members, but the session was rapidly coming to a close and considerable business had to be gone through. They would have another day for the passing of the Bill after the drafting had been carefully examined.

PART II

Mr. V. J. Patel moved for the deletion of the whole part. He said these provisions had substituted rule of the executive for rule of law. They would strike a death blow to all constitutional agitation in the country, and he saw the end to all their political aspirations. These provisions would defeat their own purpose as they would drive all agitation in hidden channel, and disastrous consequences would follow, as the night followed day. The safeguards were in his opinion, illusory. He criticised the method to be followed by the investigating authority to be constituted under the Act, and said that the authority would condemn persons unheard. He said that the principle was not heard of in any civilised country. He drew attention to the fact that the investigating authority had no power to summon or examine witnesses, and the Local Governments might or might not produce witnesses. Further, the investigating authority was not bound to examine any witness produced by the accused under the Act. Mr. Patel further criticised the rule laying down that the accused should not appear through a Pleader, and concluded that the enquiry conducted by the investigating authority would only have the semblance of enquiry without being in any way a proper enquiry.

Mr. Chanda said he had a similar motion on the paper, and instead of moving it separately, he would speak on Mr. Patel's motion. There was one place he could think, Jedbagh in Scotland where execution used to take place before trial. The Bill was

opposed to all canons of civilised administration. Here the executive Government first punishes a man, interns him, compels him to dance on the Police-Station, orders him to desist from doing certain things—and we know that tortures have in the past been inflicted—and then having done all this, you give him a chance of some sort of enquiry, a Star Chamber enquiry—the *investigating committee* !!! "My Lord, every artist tries to improve upon his model—in Jedburgh they had a trial after the execution ! Here there is not even a trial"! Here is an *investigation* ! When the investigating authority comes to a finding and reports it is not binding on the Government. This is the sort of inquiry you give to the man after having punished him !!!

The Hon. Mr. Sarma had a similar amendment, and said it was most objectionable and most anti-British part of the Bill. The Government of India had nothing to go upon, except their bare opinion and the opinions of the Local Governments. The Government of India had enough powers to deal with revolutionary movement. What they wanted was to prevent the scrutiny of judicial authority ; they want to be free from judicial control ! The Indian Members were attempting to save the Government from a crisis.

Hon. Sir Verney Lovett said he supposed it was a hopeless endeavour, but he should like to make one last attempt to induce the non-official members to see the broad facts in the matter as they were and not as they saw in strange light. He had heard it frequently reiterated and some point of view with considerable exaggerations had been put forward in the press that the object of the Bill was to persecute the people and that the Government, in introducing this measure, was trying to erect a monstrous engine of tyranny and oppression. Their friends here were not so hard on the Government, but they had managed to persuade themselves that the Government was very hard on them. Yet the truth was the Government was not only not hard on them, but was simply performing a plain and obvious duty to society. There was an idea in the minds of some members that the British Government was doing in India or trying to do in India what it would not do or try to do in Great Britain. What were the facts ? Certain clever conspirators discovered in this vast continent in particular provinces that, where communications were extraordinarily difficult, where educated classes were poor and impressionable, it was possible to organise revolutionary associations over a wide area. Now he would remind the members that Great Britain was a small country endowed with excellent communications with homogeneous community, and there it would be impossible for any gangs to organise and keep going the system of robberies, murders and terrorism so successfully as it was in India. They might be certain

that, if anything of the kind received the smallest measure of success, people being extensively terrorised and police officers constantly shot, if the ordinary law was found inefficacious to cope with the evil, his countrymen would certainly devise remedies much more drastic than the Bill before the Council. The past history of the Government of India showed that they had always been most reluctant to undertake legislation of a preventive kind of the type of this measure. Now the Defence of India Act was what had helped them to defend the young educated men of Bengal as nothing else had helped, not even their own fathers, nor their teachers, for they were ignorant, nor their associates, nor themselves, for they were blind to danger. In deference to the views of the Hon. Members the Government had agreed to make this a temporary measure. Still they were asked either to abandon it or to make it entirely ineffective. He could not gather how such action was in consonance with the feasible obligation of the Government to protect lives and property of their servants and subjects from revolutionary members, which Mr. Bannerji himself had admitted had not expired.

Hon. Mr. Jinnah said he could not possibly express in words his feeling in regard to the part of the Bill under discussion. He quoted English constitutional authorities to show that extraordinary powers might be taken when there was danger to the Government. He asked : Who was going to determine the danger to the Govt. in India ? It was the Executive Government and that was a wrong proceeding. Why had not the Government taken such coercive measure in Ireland. Were there no revolutionaries in Ireland ? Was not Ireland seething with sedition ? During the War in India the large body of people were absolutely loyal. There were possibly a few hundreds of revolutionary tendencies. Under this Act the innocent should suffer with the guilty. That was opposed to the teaching of history and the fundamental principles of the constitution. As soon as the Government spread its net with the arbitrary engine they were proposing, they would, no doubt, net in some more guilty people, but he asked the Government to consider how many innocent people they would be netting in at the same time. Sir Verney Lovett had given the Council a harrowing account of this sufferings of the innocent people. The speaker assured the Council he was an anxious as Sir Verney to protect them. Proceeding Mr. Jinnah said that, if he was convinced that the British Rule in India was in danger and there was clear indication of that, he would have no hesitation, although he personally loathed the principles, in ageeing to a bill of the kind proposed. He really could not understand, especially in view of the statement made by Sir William Vincent that revolutionary troubles were being brought to an end, why the Government wanted to pass this Bill.

The Government said the situation might any moment go worse, and therefore "please pass the Bill". That, again, was opposed in principle. Such powers could only be granted if there was a real need. The people were entirely opposed to the Bill. If the Government in England had introduced such a measure and the people were opposed to it, and supposing Sir Verney Lovett was the Premier and he dared to bring forward the legislation, his Premiership would not last for 24 hours. The Hon. Law Member had told them the Government was not going to surrender its considered judgment. The speaker had not that power, the Government had, but they, too, had considered the matter and were not going to surrender their considered judgment.

Dr Sapru said that he had carefully considered the provisions of the Bill and held that part II did not bear the least resemblance to any law in any civilised country. All pretence to conformity to judicial law was given up. The Government could say to the investigation authority they were of opinion that a man was guilty and they instructed him to investigate into his guilt. This was nothing better than mere mockery. Sir Verney Lovett had given a sad picture of Bengal. Assuming he was correct, could the Council believe that the proposed remedy would cure the cancer. The Government had often come to their Council asking for repressive measures, but the measures had failed to cure disease. They had not learned the lesson of history, the result of the coercive measures in Ireland, for instance, in vain. He referred to the opinion expressed by Sir Narayan Chandavarkar in his letter to the *Times of India*, and asked Mr. Verney Lovett to read those letters. Sir Narain had been quoted as an authority. He sat with Mr. Beachcroft to enquire into the case of internment in Bengal. He had expressed the opinion that the measure before the Council should be condemned, What, he asked, would Government to say that ?

Mr. Surendranath Bannerji said that reference and been made by more than one speaker to the conditions in Bengal in justification of the measure. He made bold to say that whatever might have been the condition in the past, the position to-day in Bengal had distinctly improved. About this time last year there were about 1 000 detenus, and now the number was about 400. The two main factors in tranquilising the situation were the policy of Government and the reforms. There was absolutely no justificatcn, at any rate, for that part of the Bill (part 2) which was most objectionable. Laws based on the Rowlatt Committee recommendations, must not be prooceded with: It was bound to create an atmosphere of discontent, mistrust and excitement. Was it desirable, was it

expedient? If the State was in real danger, they would unanimously have supported the Government in passing any suitable measure. He strongly maintained that was not the case. He recalled the extraordinary circumstances under which the Bill was being rushed through. Was there ever a measure which had 187 amendments? Was there ever an all day and all night sitting? And still Government would force the measure through! He appealed to the Government still to reconsider their position.

The motion of Mr. Patel was rejected by 35 to 21.

Discussion on this motion lasted for more than two hours. On the motion of Sir William Vincent Part II was adopted.

The Council adjourned for lunch.

Mr. Chanda's amendment to substitute "Legislative Council" in place of "Executive Council"in Clause 20 was negatived.

Amendments directing notification of application of law be placed on the table of the Legislative Council, and another requiring sanction for notification either by the Imperial or Provincial Legislative Council also were negatived.

Mr. Patel next moved that in Clause 20 "Offences against the State" should be sustituted for "scheduled offences", The scheduled offences, he said, were numerous. The change made in the Select Committee was a boon which he respectfully declined on behalf of the country. This was negatived.

Mr. Chanda pointed out that in revising the Bill. the Select-Committee omitted to define scheduled offence. Mr. Chanda moved an amendment to Clause 21 suggesting enquiry by investigating authority before any order of internment wss passed.

Sir William Vincent, at this stage, informed the Council that the Government were prepared to accept an amendment on the lines of one that stood in the name of Mr. Srinivasa Sastri. It also very nearly corresponded with that which stood in the name of Mr. Patel. The effect of this would be that even before passing an interim order for internment, the Government would lay the paper before a judicial officer.

Mr. Sarma urged the Home Member to extend this concession a little further, and instead of taking the opinion of the judicial officer above mentioned, to take the opinion of the investigating authority on the whole case. That would facilitate matters and there would be only one enquiry instead of two.

Mr. Shafi urged Mr. Chanda to withdraw his own amendment and accept Mr. Srinivasa Sastri's amendment which was on the paper.

Mr. Chanda regretted his inability to do so, and pressed his own amendment which was negatived.

Mr. Srinivasa Sastri formally moved his amendment as indicated in Sir William Vincent's earlier remarks. Sir William Vincent accepted the amendment in substance only, alteration being that instead of the words "not below the rank of a District and Sessions Judge" he substituted the words "who qualified to be a High Court Judge."

Mr. B. N. Sarma moved that the amount of bond to be taken from a suspect should be prescribed He also moved for the deletion of clauses authorising the Government to order a person to reside in a particular area, and reporting himself to the nearest police station.

Sir William Vincent, in opposing the amendment, said with regard to the bond they had followed the draft in the Criminal Procedure Code. With regard to the deletion of two clauses, he said these provisions were found to be an effective form of restraint. These persons' welfare was secured, for provision was made in fact for the subsistence of internees, and the visiting committee were also provided for in that connection. The amendment was negatived.

After consideration and rejection of many amendments, Clauses 21 to 24 were adopted.

Sir George Lowndes proposed a small change in clause 25 which was accepted. No less than 29 amendments were moved to Clause 25. Those relating to objection to enquiry by the investigating authority *in camera* and urging rrepresentation of the accused by a lawyer or appear personally were negatived after a long discussion, division being for the amendments 17 for and 33 against it.

B. N Sarma moved an amendment to Clause 25 (2) suggesting that the investigating authority should tell the accused the nature of the evidence as far as it may be disclosed.

Mr. Patel moved another amendment to the effect that the investigation should take place in the presence of the accused which was objected to by Sir James DuBoulay on behalf of the Government. The amendment was negatived.

Sir George Lowndes accepted the principle of the amendment moved by Mr. Chanda that the investigating authority shall, if the person in question applies to him for process to compel the attendance of any witness or the production of any document or thing, issue such process, unless for reasons to be recorded, he deems it necessary to do so, and for this purpose such authority shall have all the powers conferred by the Code on a Court.

Messrs. Chanda and Sarma moved that Clause 25 (2) be deleted.. The motion was negatived.

Mr. Patel moved that investigating authority will record in writing the reasons for not disclosing to the accused the evidence against him. The amendment was rejected.

The Hon. Mr. Khaparde moved an amendment to clause 25 (3) urging the investigating authority to observe the law of evidence. Mr. Patel suggested that he shall observe the law of evidence as far as possible.

Mr. Kincaid dealt speciously with the law of evidence and jurisprudence at some length, when His Excellency asked himto come to the amendment. Mr. Kincaid, continuing, said that he was coming to the amendment when the Viceroy reminded him of tea time.

Dr. Sapru followed and asked Mr. Kincaid to enter Parliament and propound his jurisprudence there.

The amendment was negatived by 16 votes against 34.

The Government accepted two minor amendments moved by Mr. Patel and Mr. Khaparde and Clause 25 as amended was passed.

The Government also accepted some amendments to Clause 26 which provides for the disposal of the report of the investigating authority. The Clause thus amended was passed.

To Clause 27 which provides penalty for disobedience to the order made by the Government, Mr. Chanda moved that the imprisonment shall be simple. Sir William Vincent said that the person disobeying the order in these circumstances did not deserve more consideration. The amendment was negatived.

Mr. Patel moved an amendment that the maximum penalty of three months, instead of six and a fine of Rs. 500, instead of Rs. 1,000 be imposed.

Sir. William Vincent agreed to the second part of the amendment referring to fine. The amendment was passed.

Mr. Bannerji moved an amendment that of the three members of the investigating body two instead of one shall be persons having held judicial office not inferior to that of a District Judge and one shall be an Indian. He said the investigating boards of the type in Bengal of which he gave instances had given satisfaction to them, and he wanted that should be embodied in the Statute.

Mr. Patel opposed the motion. He said that Indians took no responsibility for the passing of this measure, and he thought no Indian should serve on these committees.

Sir William Vincent, said that he was prepared to accept the first part of the amendment. With regard to the second part he said that it was most inadvisable to make racial distinctions in the Statute. He assured the Hon. Member, however, that there would be at least one Indian on the committee. Mr. Bannerji accepted this alteration. The clause was passed.

Clause 31 giving power to Local Government to make rules was next passed. This concluded Part II of the Bill which was adopted.

Third Part of the Bill.

Mr. Patel moved for its deletion. About this part he said the

less said the better. He formally moved this amendment as he found it was hopeless to expect anything from the Government after the attitude they had taken up during the last three days.

Pandit Madan Mohan Malaviya, in supporting the amendment, said that there was no necessity for legislation as was provided in Part III of the Bills, and that it was not right that it should be so enacted. He said there was no reason why investigation of the matter be taken out of the jurisdiction of the Magistrate and placed in the hands of the investigating authority. Had the Government lost faith in their Magistrates? No justification was shown why the enquiry should not be by ordinary courts. They were anxious that injustice might not be done and that was the reason of their anxiety in asking that the judiciary shall not be replaced by the Executive. There had been cases of failures by the best constituted courts, but he had not heard it suggested that they should be replaced by unjudicial executive courts. It had been said that an impression would be created outside that the Indian members were not sufficiently alive to their duty to their fellowmen to secure peace, order and good government. He hoped this charge would not be seriously advanced by any man with the knowledge of facts. Their efforts in this Council during the last ten years had shown how they had been labouring strenuously to promote their welfare that made them oppose this measure. There had been instances where Local Governments had erred, and that was a circumstance they could not forget. He still urged the Government to reconsider the matter.

Mr. Jinnah said that Part III, if adopted, would bring about the result that public safety would be endangered, and, quoting the opinion of Lord Shaw, said that the result would be that Government would be at once "partly, Judge and executioner." He characterised Part III as the blackest in the Black Bill. He loved India which had been his home and the home of his ancestors too dearly, and this Bill was going to tarnish her fair name.

Dr. Sapru called the proposed measure a law which was no law or rather a lawless law, and said that, though he agreed with Mr. Patel that there was no hope of getting his amendment accepted, yet he could not help expressing his protest against the enactment as it took away from the accused the right of a fair trial.

The amendment was then negatived by 19 votes against 36.

Clauses of Part III were then considered. Amendments to Clause 32 to substitute Legislative Council for the Executive, were debated and the Clause stood part of the Bill.

To Clause 33 Mr. Patel moved that the word "actively" should be inserted in connection with person suspected of being concerned in any scheduled offences and he also wanted the addition of the words

to provide that the offences were concerned with any revolutionary and anarchical movement.

Sir William Vincent said the last part of the amendment would be met by inserting the words in the schedule itself. With regard to the first part he said he opposed it as it would not be possible to otherwise deal with instigation. The amendment was negatived.

The amendment by Mr. V. S. Srinivasa Sastri on the same lines as that accepted to Clause 21 for examining the case of a person concerned was accepted. The clauses thus amended stood part of the Bill.

Clauses 34, 35 and 36 were then passed without discussion.

To Clause 37 Sir William Vincent accepted the amendment that the maximum amount of fine provided in penalty should be fixed at Rs. 1,000. The Clause thus amended was passed and the Third Part of the Bill was disposed of.

Fourth Part of the Bill

Part four has only one clause dealing with persons already under executive control. Mr. Patel moved an amendment to that clause the effect of which he said would be to entitle certain detenus to judicial trial by a special tribunal under this Act. He said it was high time people confined for nearly four years should either be tried or released.

Sir William Vincent, in opposing, quoted the Rowlatt Report that there were dangerous characters still requiring control. He, however, was in readiness to meet the Hon. Member by making certain alterations in the amendment which he said would make the law more lenient in respect of these persons. The effect of Sir William's suggested alteration would be there would be not trial but their cases would be dealt with under the provisions of Part two of the Bill.

Mr. Patel accepted the suggestion. He said he would otherwise lose the little that was offered.

The Clause thus amended was passed.

Fifth Part of the Bill.

To Clause 39 **Mr. Patel** moved an amendment making it mandatory on the Governor-General in Council to cancel the notifications on the recommendation of the Legislative Council. The amendment was negatived and the clause passed.

Clause 40 was passed without discussion.

To Clause 41 which provided that orders made under this Act shall not be called in question by the Courts, **Mr. Patel** moved an amendment for addition of words to the effect that the High Court shall have power to revise the orders made under Section 26 and 36. The amendment was negatived.

Mr Chanda moved an amendment the effect of which was to enable the party to bring a suit or take other legal proceedings.

Mr. Khaparde in supporting the amendment, referred to the Privy Council ruling in the Moments case and to Lord Loreburn's remarks that the Government of India were going on infringing that ruling. The amendment was negatived and the Clause stood part of the Bill.

Other clauses of this part were passed without discussion.

The Schedule.

To the first clause of the schedule Sir William accepted Mr. Patel's amendment which was passed. Mr. Sarma's amendment to insert the words "anarchical or revolutionary" in the schedule was accepted and passed.

There was a lively discussion on Mr. Khaparde's amendment to omit Section 124 (A) from the schedude.

Mr. Patel said that in respect of this section as also Section 153A the Government had gone beyond the recommendations of the Rowlatt Commitee and the retention of these two sections of the Indian Penal Code would lead everyone legitimately to infer that the Government wanted to kill all constitutional agitation in India.

Sir William Vincent said : In including these sections they had followed the Act of 1908. He had taken every step to reassure the members of the Council and the public that the Government would not use the Bill to suppress constitutional agitation. These sections would come into operation only when they were connected with the revolutionary movement.

Pandit Madan Mohan Malaviya said : Neither Sir Verney Lovett nor the Home Member had answered Mr. Patel's argument. The point had been pressed in the Select Committee, but without effect. The Home Member had said that offence under 153A and 124A connected with anarchical or revolutionary movements alone would come under this law, but who was to decide ? Not a Court but the local Government. So this was a great danger for the people and he thought it was almost hopeless to hope. He hoped the Government would accept the amendment and remove much misapprehension. He referred to the trouble that might be created for the people whom the executive did not like, and whose honest criticism they misconstrued. Even trouble in no way connected with anarchical or revolutionary might be brought under this law if the amendment was not accepted.

Mr. V. S. Srinivasa Sastri, supporting, said : It was very necessary if they wanted it to be made clear beyond anyd oubt, that they did not want to suppress constitutional agitation, to exclude these sections.

The amendment was rejected by 19 votes against 34.

The schedule, as amended, was passed. With this concluded the consideration of the Select Commitee's report,

Imperial Legislative Council

18 March 1919

The Crimial Law Amendment Bill

(Second Rowlatt Bill)

Sir William Vincent moved that the report of the Select Committee on the Second Rowlatt Bill be republished. He said he did not need to discuss the details of the report because their intention was to republish the bill as amended and that the decision he might mention was arrived at in agreement with all the non-official members in the Select Committee. It would be premature to discuss the details and they could do so better in the light of criticisms that they might receive. He added however that the first clause of the bill to which great objection had been taken, namely to enact a new clause 124 B had been omitted in toto from the bill as amended.

Pandit Malaviya wished to know whether, when the opinion of various bodies were received, the bill would be referred back to a Select Committee.

Sir William Vincent replied it was premature at the present moment to prejudge what action would be taken on receipt of opinions.

Pandit Malaviya then moved an amendment that on the receipt of opinions, the bill should be recommitted to a Select Committee.

He said the statement in the Select Committee's report on the bill that he and others withdrew from the committee was partly incorrect. It did not state the reason why they withdrew. They did so in view of His Excellency's ruling that members not signing the main report were not entitled to tack on dissenting minutes. They wanted to keep out of the committee until that ruling was reversed.

(At this stage the President intervened and said it was not open to the Pandit to question his ruling.)

Pandit Malaviya said he was merely raising the question of privilege.

The Viceroy said he should do so without questioning the ruling of the Chair.

Pandit Malaviya said in that case he had nothing more to add and formally moved an amendment to Sir William Vincent's substantive motion.

The amendment was lost by 35 votes against 9.

Mr. Patel moved that the Bill as amended by the Select Committee be shelved.

The Viceroy ruled him out of order on the ground that the amendment was merely a negative one. His Excellency said Mr. Patel could, if he so wished, speak on Sir William Vincent's motion.

Mr. Patel thereupon opposed the motion. He maintained that the Bill as amended by the Select Committee did not in any sense amend the Indian Penal Code. It could not be called Indian Penal Code Amending Bill. He asked the Viceroy to consider what High Courts would think of this august assembly if they said that it was a bill recommended by their Select Committee to amend Indian Penal Code (Laughter). Another ground on which he opposed the motion was that the present Bill should be taken up along with the question of general revision and amendment of the Criminal Procedure Code which was already underconsideration.

Sir William Vincent said the principal argument of Mr. Patel was that it would be more convenient to discuss these proposals when the Council considered the amendment of Criminal Procedure Code. In this connection he might say that the amending bill had been published and circulated for opinions, and the course proposed by the Hon'ble member would mean that they would not have opinions of Local Governments and High Courts on the present Bill. With regard to other remarks of the Hon'ble Member Sir William said those comments made it more necessary that they should have further expert opinion on it. He thought in this matter the Government was treated with a little want of consideration.

The motion to circulate the Bill for opinion was then passed.

The Emergency Powers Bill.

Rowlatt Bill No. I.

Sir William Vincent then moved that the Anarchical and Revolutionary crimes Bill as amended be passed into law. He said in making this motion he must at the outset express his great regret that Government were not able to secure non-official support for this measure. The attitude of Government was not unreasonable; they had done their best to meet them in making important modifications. At the same time, he quite realised the feelings of the Hon'ble members. Their extensive dislike on the measure was based on the apprehension that powers under this Bill might be abused. He asked them to consider the position from the point of view of the Government. The Government had examined the position from their point of view and had done all they could to meet them and had made changes in the Bill which would commend to them as improvement. He then reiterated the piping tune of officials that there were revolutionaries out and some measures of repression were necessary.

Continuing Sir William said the main criticism had, however, been based on different lines. It was said the Bill was an unfair infringement of the liberty of the subject and that it was repugnant to all ideas of western justice. The Government admitted it was a very serious and drastic measure, but he asked them to look at things from the practical point of view rather than from the theoretical. He asked them to remember the authority by which the Bill had been recommended. All except one were judicial officers who would be entirely unlikely to suggest this remedy if there had been any other remedy which would satisfactorily cure the disease. He wanted them to remember that the circumstances in which the Bill could be brought into operation and the people to whom it would be applied were very special. He had heard a great deal during the debate of liberty of subject being infringed, but even now he asked the members to co-operate with the Government and authorities in crushing the movement through ordinary courts. He asked them to use their great power to induce the public to assist them (Government) by coming forward as witnesses, by doing their duty as jurors honestly and frankly, and if even now the Government secured that support from public he believed the necessity of bringing this Bill

in force would be very much less. He asked for co-operation of members again in crushing this movement. They recognised that repressive measures alone could not be effective. To remove the cause of discontent the Government had recommended changes in constitution and change in the system of administration and they all hoped that a measure would be shortly placed before Parliament. Anarchy and revolution were the greatest enemies of political advance, and for this reason they sought support of the Council for this measure. With regard to the apprehension that the provisions of the Bill might be abused, he reminded the Council of the steps taken by the Government to reform these young revolutionaries. He hoped the members would give Government credit for its efforts in that direction. It would be the earnest endeavour of the Government to continue that policy to lead young men into right path and away from their criminal propensities. He assured the Council for the last time that the Government would make it their duty to see the Bill was not used in connection with political agitation, but only in connection with suppression of this kind of crime which they believed would be a great danger to the future of the country.

Mr. Patel moved as an amendment that the Bill as amended by the Council be republished. He said that the country ought to have sufficient time to consider the measure so that they may be in a better position to know what people really felt about it. Speaking on the merits of the Bill Mr. Patel said the Government remained as unbending as ever in total disregard or rather defiance of the unanimous protest of the entire Indian opinion both in and outside the council. They did all that was possible to have some of the amendments accepted in order to make the Bill less dangerous. The only thing that now remained was to enter the last protest against the passing of the Bill into Law. He was of opinion that it was not within their competence to enact this law and it was not so free from doubt as the Law Member would have the Council to believe and discussed Sections 65, 106 and 32 of the Government of India Act 1915 to illustrate his points and also rererred to the discussion on the amending bill in the House of Lords in 1915, which was referred to a Joint Committee of both Houses. He then briefly dwelt on several parts of the Rowlatt Bill and said the evidence on which Rowlatt Committee based their findings had not been supplied to the members of the Council and they were asked to accept these findings as correct. The text of the Bill as introduced was not submitted to the Secretary of State and his sanction was obtained to the introduction of some sort of bill on the lines of Rowlatt Committee's recommendations. He reiterated that the Bill went much beyond these recommendations, in one very essential particular, namely the addition of section 24A and 153A I. P. C. to

the schedule, while the Rowlatt Committee recommended that the schedule of Criminal Law Amendment Act, 1908, might be adopted. Further, correspondence between the Government of India and the Secretary of State on the subject had been kept secret from members of the Council and in his opinion the whole proceedings in connection with this Bill since the presentation of the so called Select Committee's Report were invalid and illegal. No ruling of His Excellency the President could legalise what was not otherwise legal.

H. E. the Viceroy :—Order, Order. The Hon'ble Member has not to question the ruling of the Chair.

Mr. Patel Summed up and said :—

I protest against this Bill for the following among other reasons :—

(1) It is not within the competence of the Indian legislature to pass this Bill into law.

(2) It casts an undeserved slur on the loyalty of 300 millions of people and amounts in fact to an indictment against the whole nation.

(3) It substitutes the rule of the executive for that of the judiciary and thus destroys the very foundations on which British liberty rests.

(4) It will kill all political life in the country and thus make 'ordered progress' impossible.

(5) It will intensify and not mitigate the evil complained of. It will drive all agitation into hidden channels with the result that consequential evils will follow as surely as night follows the day.

(6) It is utterly subversive of the order of things hitherto recognised and acted upon in all civilised countries. It is unparalleled in the legislative history of any such country.

(7) It is being passed in defiance of the unanimous Indian opinion, both in and outside this Council.

(8) Repression is not the remedy for eradicating anarchical and revolutionary crimes. These crimes are the outcome of political stagnation which has resulted in untold miseries to the people of this country.

Remove the root cause and anarchy will disappear.

(9) It will plant in the minds of the people harsh memories which even time will not soften.

(10) Stability of British rule in India depends and must depend on the peoples' will and not on force.

(11) The Bill is being passed into law on an incomplete and invalid report of the Select Committee. All the proceedings of the Council since the presentation of such report are, therefore, invalid. Law passed in that manner would be *ultra vires*.

"No wonder then that under these circumstances you find some of us who care for liberty, who believe in liberty, who love liberty,

are prepared to disobey laws of this character and submit to the penalty of such breaches. Passive resistance, my Lord, is the last and only constitutional weapon of a despairing people. It is my duty to warn your Excellency's Government against the conse quences of driving the peaceful and law-abiding people as the people of India are to resort to passive resistance. I do so, my Lord, in the best interests of India and the Empire."

Mr. S. N. Bannerji replying to Sir William Vincent that India had not developed responsibilities of civic life, said that that was a reflection on a century of British Rule. He opposed the bill with regret and under a sense of overwhelming compulsion as a public duty which had to be performed. He thankfully acknowledged that the Government had made concessions, important from the Government's own point of view, though they might not be so from the non-official point of view. But what had been done was not enough. That was the verdict of public opinion. The character of the Bill remained unaffected. The Executive complexion was its dominating feature and it overshadowed every other aspect of the bill which remained the same in principle. Public opinion was not satisfied and their opposition remaind. The bill was really an executive order robed in the garb of legislation and in the words of an eminent jurist is a lawless law. It was a glorified ordinance with a judicial colouring somewhat thickly laid on. They could not see their way to be associated with the responsibility for such a measure. Responsibility meant power, and both went together. In the Imperial Council they had no power, they might only influence and persuade, but they could not direct. Never was their impotence in the Council more strikingly demonstrated than in connection with the Bill under debate. Amendment after amendment was proposed and lost. Their united voice counted for nothing in the Councils of the Government. Mr. Bannerjee pointedly referred to the defeat of his own amendment which did not seek to change the character of the Bill but only to postpone it for a time. Mr. Bannerjee asked if it would not have been better for the Government to have frankly recognised it as such and to have taken upon itself the sole responsibility for the measure. In any case he maintained that the Bill should not go forth as having behind it the authority of the Indian Members of the Legislative Council who to a man were against it. There were 187 amendments. Yet some of them were such as might have been accepted without the character of the bill being in the slightest degree changed. The amendment for appeal, which followed the Irish Crimes Act, was rejected. The same fate awaited his own amendment asking that there should be no conviction except on an unanimous verdict of the judges of the Court. The amendment asking that the accused persons should

be represented by a pleader was also lost. There was a strong feeling about this matter in the country. Lastly Mr. Patel had pressed hard for the elimination of sections 124, A and 153, A from the Bill, and the amendment was lost. That would have an unfortunate impression in the country. There was a general feeling that the Bill when it became law would cripple legitimate political activities, and cause stagnation of political life. The feeling might be well-founded or ill founded, but it was there and the Government could not ignore it. The Government would have been well advised and would have lost nothing if these sections had been eliminated. Their objection to that principle and policy of the bill must appeal to the instinct of every Englishman wedded to law and the reign of law. They objected to the supremacy of executive authority and partial suppression of judicial procedure even in a limited class of cases. They had been told that the opposition to the Bill argued their unfitness for responsible Government. To his mind it was just the other way and he asked the British officials to read their own history. Englishmen had strengthened and vitalised themselves for the great heritage of constitutional freedom which they were now enjoying. Indians were doing the same under their guidance and leadership, and were thus proving their capacity for responsible Government. Anarchists were only a handfull. Why should the Government make a departure from the ordinary law of the land against the protest of the whole community. Now that the Bill was about to become law, finally appealed to the Viceroy to withhold his assent to it until such time as it became absolutely necessary to extend it in any given area. Much would be gained by such an act of forbearance.

Mr. Srinivasa Sastri in opposing the motion said in the course of his speech :—When they were considering the measure the other day it was conceded that the investigating authority should be under obligation to record the express finding of the question that the scheduled offence was really committed in connection with anarchical or revolutionary movement. They asked that a similar provision should be made in Part I, but the Government were unmoved. By resisting that demand and by their refusal to take away sections 124 A and 153 A from the schedule, he thought that the Government had still laid themselves open to the criticism that the measure they were about to pass, whatever the intentions of the Government might be, might at times be used to deal with ordinary political offences. On this point it seemed to him that it was fully open to the Government without violating the fundamental principles underlying the Bill to meet them and he regretted that the Government found themselves unable to do so. The history of Legislation showed that when contentious Bills came to be shaped the air was full of prognostications of catstrophe from those who opposed the

bills, while those who defended them were equally full of promises of the millenium to come. Afterevents showed that neither the prognostications nor the promises came fully true. He hoped that this measure would not fufill to all events, all the prognostications given expression to here. No one would rejoice more than himself in that case. They felt very strongly that the Bill was not now necessary, was not now emergent, that it was inopportune and they believed it. The strength of their belief could not but be known to the Government. If it was necessary for the peace of Bengal and therefore for the peace of the other provinces, it was open to the Government with the knowledge they had to come with a measure conferring on them power to continue in custody the people they already held and to confine the people who were still at large against whom they possessed evidence. Instead, a general measure causing the widest alarm was brought before them. Why was there this anxiety on the part of the Government when there was no special emergent need? It was just as well speaking solemnly in this last hour that he should mention one or two things he had often heard. After referring to a paragraph in the "London Times", he said another cause which was put forward was that it was just as well that the Government were armed with this power before peace was signed, and the fate of the Turkish Empire filled the hearts of the Mahomedan community with dangerous discontent. Other people had said that when the report of Parliament on the Reforms came out political discontent might take forms which might not be grappled with successfully unless the Government had extra-ordinary power. Yet another reason was suggested and he might walk warily when he brought it to the notice of the Council. A little while ago his friend Babu Surendra Nath Banerjee made an appeal to the European Members of the Council and to the European community generally, and if he refrained from repeating the appeal it was not because he did not believe in it but because he wished for one moment to appeal to his friends on somewhat lower grounds. He asked them to remember this bill of downright coercion was not going to apply to them (Europeans) at all, unless some one member of their community out of his excessive zeal for love of liberty chose to cast his lot with the fortunes of the down-trodden people of India. So secure were they from the evil effects of this measure that it was proper for him to appeal to them for their sympathy and chivalry, if not for their support. If they could not support them they should at least refrain from casting any insinuations as to their loyalty, to refrain from saying that Indians who opposed this measure, were showing incapacity to govern themselves were exhibiting but criminal sympathy with the anarchists. Sastri then referred to a paragraph in the representation of the European Association which was a foul

libel on the character and motives of those who opposed this Bill. He said that the Europeans in India were alarmed at the coming changes as they dreaded that the criminals of India might attack their strongholds. This was another of the reasons suggested to provide in the great armoury of Government this bill in advance of its time. In a few moments the Bill would be law but it did not end there. They had still the aftermath consequence of the law.

The Hon'ble Mr. Shukul said that he fully realised the responsibility of his position as a representative of the Zemindars and considered it to be his duty to oppose the motion. The Bill was sub-versive of all principles of English Law. The unfortunate attitudes of the official members had made people think that the Bill was a settled fact and it had been a great disappointment to the people. The non-official members had asked for the rejection of the Bill, for its republication and had urged amendments without avail. Protest meetings had been held and passive resistance advocated by Mr. Gandhi. The verdict of the country condemned the measure. He read out an appeal from the non-official members of the Central Provinces Council and entered his emphatic protest against the Bill.

Sir Verney Lovett said with regard to the fear expressed about the danger that the active operation of the Bill would bring he wished to point out that the tribunals by which the accused persons in certain contingencies would be tried would be tribunals of the highest strength and authority. In considering the danger likely to arise in the case of internees it was necessary to bear in mind that of 806 persons interned by the Government of Bengal, after careful investigation only six were recommended for release and under the provisions of the Bill non-officials would be members of the investigating authority. He emphasised that particular precautions had been taken to prevent any mistakes occurring. The Act would not be brought in operation except for the gravest reasons. As an administrator of some experience he would say that should the need be imperative it would be unwelcome in the extreme. The anxiety and fears of the Hon'ble members, he said, were unjustified by facts or by probabilities. Sir Verney then replied at great length to some arguments to show that the loyalty of India had not been attacked and emphasised that the object of the Bill was to save loyal Indians from predatory criminal operations of a section of their fellow countrymen. He reiterated and emphasised his assertion that never would British Government nor British people tolerate the existence of revolutionary outrages in any part of the country but would take drastic measures to prevent it. He had not much experience of Ireland and when he visited that country he did not observe similarity of conditions.

The Hon'ble Mr. M. N. Hogg. speaking on Sir William

Vincent's motion said that when the Bill was first introduced he voted for Mr. Bannerjee's amendment not because he thought it was the ideal solution but because he thought that the Government should make one more effort to secure the support of Mr. Bannerjee and his friends. That effort had been made and considerable and important modifications had been made, in the Bill and he regretted that the Government's efforts to secure that support had not been successful. When the Bill returned from the Select Committee and Mr. Surendranath Bannerjee moved his amendment he listened carefully to the speeches but he could hear nothing in the nature of a promise that if the amendments were carried they would in the September meeting support the Bill. No undertaking was given that during the interval they would endeavour to educate public opinion. That being so he could not see what was to be gained by postponing the measure. He supported the measure because he was satisfied that special measures were necessary to cope with anarchical and revolutionary crimes, because he was satisfied that no law-abiding citizen whatever his political views, had anything to fear from this measure. Referring to Mr. Sastri's observation about the paragraph in the representation of the European Association he said that he had not read that representation and therefore could not say how far it represented his views but he wished to point out that the paragraph said among those who opposed the Bill there might be some who sympathised with the anarchists. Mr. Sastri had complained of misrepresentation in this respect, but no misrepresentation could be more gross than one made by the Hon'ble Member. He saw no connection between the coming political changes, and the passing of this measure which was designed to deal with men addicted to anarchical crimes designed to protect India from their insidious doctrines and teachings.

The Hon'ble Pundit Madan Mohan Malaviya speaking on the Rowlatt Bill said that they now officially recognised that the Government must feel as if they had made all possible concession in regard to the Bill. Though the speaker and others thought otherwise he said it was a matter of satisfaction that the Bill was limited to three years. Some other useful amendments also had been made, but they did not at all touch the principles of the Bill. They did not quarrel with the statement of facts contained in the Rowlatt report. Their difference was with regard to the recommendations. Pundit Malaviya said that no English official could be more desirous than they were for the disappearance of anarchical crimes. Some of their finest young men had been drawn into revolutionary paths, and on a matter of that kind the Pundit maintained no Englishman could be more anxious than an Indian. They were all agreed that revolutionary crime had to be combated. The only

difference lay in the method to be followed, and they insisted on a judicial trial. Sir William Vincent had sermonised to them to do their duty courageously and realise their responsibility; they might be trusted to understand and realise their duty The speaker then referred to the non-official support that was accorded to the Defence of India Bill. They were now happily in sight of peace, and did not desire to see the institution of Prussian militarism in some other way. The Pundit proceeding referred to Indian help in the war and said that nobody could say that India had not done its duty in in the war. It gave rise to a feeling that Indians must be treated better in the future and their hopes were of high order. After explaining the advent of the reform scheme the Pundit drew attention to the resolution passed at the Bombay Special Congress for a declaration of the rights of liberty, the repeal of the Defence of India Act Regulation of 1888, Press Act, etc. and said that that clearly showed that they (Indians) had hoped for substantial reforms, but where they asked for bread they were now getting a stone. They had asked for abolition of various repressive measures, but the Government of India had suddenly, before peace was signed, introduced a Bill which he characterised as a compendium of repressive measures. The speaker next dwelt at great length on the conclusions of the Rowlatt Report on which the Government has based the present legislation. He maintained that the report was not a complete statement and did not take notice of the circumstances in Bengal and quoted extracts from various statements in support of his contention.

H. E. the President enquired of the speaker if he was speaking on Sir William's motion or on Mr. Patel's amendment, or making a joint speech. If he was speaking merely on Mr. Patel's amendment, the Viceroy said, he would have to rule him out of order.

Pundit Malaviya said he was speaking on Sir William's motion, and the amendment was not in his mind at all.

[H. E. the President asked him to proceed. It was a quarter to six and the Pundit said he had no objection if the members wanted to leave for a few minutes.

H. E. the Viceroy said that was not necessary and naively added that every member could leave whenever he liked.]

Pundit Malaviya then proceeded and went on to show that it was greatly the repressive measures in the past, especially after the partition of Bengal that had helped the growth of revolutionary movement. If the government relied again on repression that would not stand them in good stead always. Dealing with the Bill he said that they opposed it because it was wrong in procedure and substance, and excessively and unnecessarily drastic. Local Governments had abused similar powers given under the Defence of India Act, etc, and they might abuse the power under the present

bill in times of excitement. In conclusion, Pundit Malaviya said that the Government had power, but it was not wise for them to disregard the feelings of the people over whom Providence had called them to rule.

Mr Sarma said that it was a time of sadness He asked the Government to consider why had all the non-official members agreed to protest against this legislation. The Rowlatt Committee said that there was a revolutionary movement, and the ordinary legal machinery had broken down. He declined to accept their conclusion. He could not allow the Government at a time of peace to say that without extraordianary powers they could not cope with an ordinary situation. The opposition of non-official members to this Bill rested on fundamental principles. If they were convinced of the necessity of the Bill they would have loyally co-operated with the Government but he considered it unnecesary.

Sir Dinshaw Wacha entirely agreed with what Mr. Bannerjee said. He held that the entire enlightened intelligece of united India joined in condemning the measure. As a practical politician he saw its unwisdom and thought that the Government ought to have accepted Mr. Bannerjee's amendment for republication in its own interests as well as the interests of the people. He appealed to the Viceroy to with hold his assent.

Mr. K. K. Chanda said that is a few brief hours the measure would become the law of the land. They had fought the hardest but failed to confirm the British tone of justice owing to the organised opposition of officials whose forefathers laid their lives to inaguiate it. Their defeat was more glorious than victory and those who read the proceedings of the debate would realise that they were right and the Government in the wrong but won by means of constituted official majority, and they had the power to carry whatever they wanted. If the officials were left to themselves the voting would have been different, because as he still belived that some of them at any rate would not have surrendered their freedom of thought. The measure passed to-day would become a permanent record of the coalession of failure in the rule of India according to law. After a rule of our hundred and fifty years the Government confessed that they were unable to govern one of the greatest nations of the earth by law and they had recourse to lawless law. There could not be a stronger proof of the bankruptcy of bureaucratic statesmanship. He appealed to the Viceroy to withhold his assent.

Mr. Sahay, associated himself with the remarks of Mr. Bannerjee and emphasised the importance of how the law was to be administered. He hoped local Governments could administer law in a way as to inspire public confidence. He opposed the Bill.

The Maharaja of Cassimbazar said that there could not be any doubt that the Bill was a drastic measure, and could not see the wisdom of the policy which had inspired this legislation on eve of the grant of responsible Government. The Bill would give a blank cheque to the Police and three fourth of the grievances of the people against British Rule were connected with the treatment they received at the hands of the Police. The bulk of non-official opposition was inspired by the dread of the police. In no other part of the world such a Bill would be wanted and even if passed would be so much dreaded.

Dr. Sapru said that His Excellency's name had for the last two years been associated with measures of reform and he was sorry that the name was going to be associated with the measure before the Council. The last 20 years had been a period of political agitation, but never during those twenty yeary had there been such an agitation as was found in the country now. Both outside and inside the council people of all schools of political opinion had combined in their condemnation of the proposed measure and why was it then that against the annanimous protest of the non-official members the officials had combined to pass this law. Were they to believe that common sense was wanting in the non-official members and natriotism and jadgment were comcentrated on the ministerral benches? Every student of constitutional history and law knew how English law differed from continental law. In England the powers of the Executive in matters of arrest and detention were circumscribed and therein lay the peculiarity of the English iaw. If there was one thing which reconciled the people of India to British rule that wss their faith in the reign of law which insured personal freedom. That reign of law this measurs would impair and lead the people and the Government into danger. He knew that the home member has assured the Council that the measure would be applied only to anarchical and revolutionary crimes but the experience of the past had not been encouraging and peoplu were justified in fighting shy of untimited powers being given to the Executive. The enactment of this measure would mean that the Government admits that the existing machinery of law had completely broken down. That was not so. And it would be dangerous to forearm the Executive In anticipation of a danger. The proposed measure was extraordinary and uncalled for. The Home Member had admitted that repression alone cannot uproot discontentment from the body politic. That was so. No one knew what the reforms would be like and if they would be like those recommended by the Vlceroy. And before those reforms it would not be judicious to arm the Executive with extraordinary powers.

Mr. Patel's amendment was put to the Council and

lost by 35 votes to 11, some of the Indian Members not voting.

Sir William Vincent in winding up replied at some length to the criticisms levelled at the Bill by the non-official Indian Members and repudiated the suggestion that Government was callously regardless of public opinion. He said that the Government's desire was always to secure co-operation with Hon'ble Members, and if Government could secure the co-operation of educated opinion in dealing with this crime, if would be a great asset. "Much has been done, but much remains to be done, and it is really owing to a want of public spirit, a want of moral courage particularly in some parts of Bengal, that many of these criminals escape undetected and unconvicted though they are known to be guilty."

He also repudiated the suggestion that this bill was a slur on India's loyalty but he thought that as regards what India had done for the Empire during the war those who were most clamant were not those who had done most.

As regards Dr. Sapru's violent attack on the present Bill, Sir William said that he carefully noted what the Hon'ble Member said previously on Mr. Khaparde's resolution for the postponement of the Rowlatt Bill in the last Council, and at that time no member supported Mr. Khaparde. Even Dr. Sapru had been content to say only that "as regards the recommendations, I have considerable doubt as to the propriety or efficiency of these recommendations", and now Dr. Sapru was denouncing the Bill in the most, unmeasured terms imaginable.

Turning to the Passive Resistance movement of Mr. Gandhi he thanked the Moderate Members who had issued a manifesto against it. He believed that that movement had great potentialities for evil. He regretted that a man of Mr. Gandhi's character should have embarked upon this movement, and though Mr. Gandhi may exercise the greatest self restraint over his actions, younger men may be lead into violence which can but end in disaster. But whatever the character of the movement Government cannot in any way yield to it.

He finally repeated that with regard to this Bill the conscience of the Government was quite clear, that they have done what they thought right, and that they have proposed a law to meet what to their knowledge was a terrible danger.

The motion that the Bill be passed was put and carried by 35 votes against 20, only the officials voting in its favour.

Rowlatt Bill No. 1 Passed!

THE INDEMNITY BILL.

THE PREAMBLE.

Whereas, owing to the recent disorders in certain districts in the Punjab and in other parts of India, it has been necessary for the purpose of maintaining or restoring order to resort to Martial Law, and whereas it is expedient to indemnify the officers of Government and other persons in respect of the acts and matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes, and whereas certain persons have been convicted by Courts and other authorities constituted or appointed under Martial Law and it is expedient to confirm and provide for the continuance of the sentences passed by such Courts or authorities, it is hereby enacted as follows :

THE ACT.

(1) This Act may be called the *Indemnity* (short title) *Act*, 1919.

(2) No suit or other legal proceeding whatsoever, whether Civil or Criminal, shall lie in any Court of Law against any officers of the Government whether civil or military, or against any other person acting under the orders of any such officer for, or on account of, or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done by the purpose of maintaining or restoring order in any part of British India on or after the 30th of March 1919 and before the commencement of this Act by any such officer or person, provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes, and if any such proceeding has been instituted before the passing of this Act, it is hereby discharged.

(3) For the purposes of Section 2, a certificate of a Secretary to the Government that any act was done under the orders of any officer of the Government shall be conclusive proof thereof, and all action taken for the said purposes shall be deemed to have been taken in good faith and in a reasonable belief that they were necessary, unless the contrary is proved.

(4) Every person confined under and by virtue of any sentence passed by a Court or other authority constituted or appointed under Martial Law and acting in a judicial capacity shall be deemed to have been lawfully confined, and shall continue liable to confinement until the expiration of such sentence or until released by the Governor General in Council or otherwise discharged by a lawful authority.

(5) Where, under Martial Law, the property of any person has been taken or used by an officer of the Government, whether civil or military, the Governor-General-in-Council shall pay to such person a reasonable compensation for any loss immediately attributable to such taking or using to be assessed upon by a person holding judicial office not inferior to that of a District Judge to be appointed by the Government in this behalf.

(6) Nothing in this Act shall (*a*) apply to any sentence passed or punishment inflicted by or under the Martial Law Ordinance, 1919, (*b*) be deemed to baf a full and unqualified exercise of His Majesty's pleasure in receiving or rejecting appeals to His Majesty-in-Council or to affect any question or matter to be decided therein, or (*c*) prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatever.

OBJECTS AND REASONS.

The following is the Statement of Objects and Reason.—

The object of the Bill is to indemnify officers of the Government and other persons for acts done *bonafide* in the course of Martial Law during the recent disorders and to provide for the continuance of the sentences passed by the Courts established under Martial Law. Such legislation is inevitable after a period of Martial Law, which is in its nature an extra legal proceeding of the officers called up on to discharge the onerous and difficult duties in a time of emergency are to receive reasonable protection. The Bill goes no further than is necessary to effect this purpose. It gives protection only to the acts done in good faith and in a reasonable belief that they were necessary for the purpose of restoring or maintaining order. It thus leaves open the question of fact in any given case to be considered by the intended Committee of Enquiry, and does nothing to prejudice the Committee's findings or the action which the Government may take upon its report Again, while continuing the operation of the sentences passed by Summary Courts established under Martial Law, the Bill does not affect appeal from the sentences passed and punishments inflicted by the Commissions appointed under the Martial Law Ordinance, 1919. The Bill moreover provides for the payment of compensation in respect of property taken or used during the Martial Law.

The Indemnity Bill.

(Following Martial Law in the Punjab)

Debate in the Imperial Legislative Council.

Simla—18th September 1919.

On the Motion to Introduce the Bill.

THE HON'BLE SIR WILLIAM VINCENT:—"My Lord, I move for leave to introduce a Bill to indemnify officers of Government and other persons in respect of certain acts done under martial law, and to provide for other matters in connection therewith. This measure, my Lord, has been the subject of so much discussion both in the Press and by other competent authorities, that I think I ought to set out to the Council in some detail the reasons that have led the Government to introduce the bill at this moment and to explain *seriatin* the effect of, at any rate, the more important, clauses of the Bill; and I will ask Hon'ble Members, to listen to me as carefully as they can, to follow in particular the detailed statement of the effect of the clauses, to view this matter without any kind of bias and to get rid of any misapprehension as to the intentions of Government or as to the meaning of the Act, which may have been created by writings or speeches outside this Council.

"My Lord, wherever martial law is declared, as it was recently in the Punjab, it inevitably follows that speedy and decisive action has to be taken by the executive officers of Government for the restoration of order. Not only does this responsibility lie directly on the supreme military commander, but also on those who are subordinate to him; that is, he gives orders which he thinks necessary, and it is their bounden duty to carry out those orders. It follows that frequently action which is just and proper, though not necessarily legal, is taken by these authorities.

"They cannot possibly wait in such circumstances to examine the law and see whether what they propose to do is strctly legal or not; delay at such a time is fatal. The authorities and the officers concerned have to act at once. Indeed, the very meaning of martial law is, that it confers powers to maintain order at any cost that may be necessary of life or property. That is the essence, as I understand it, of martial law. Such conduct will in some cases necessarily involve an infringement of the personal rights of individuals, either of their liberty or their rights in regard to property; and when martial law expires, an Indemnity Act of some character is the inevitable consequence. I think members in this Council will realise that if such an Indemnity Act is not passed, no officer charged with the very irksome and responsibile duty of restoring order will ever act with the confidence that is really essential for the effective handling of the situation. If he has to wait, to hesitate, to examine the law, to consult legal authorities here and there, the time for action may be gone, and the very mischief he seeks to stop develop to a dangerous degree. That such an Indemnity Act is the normal consequence of any period of martial law is, I believe, accepted by all constitutional writers. I do not wish to weary the Council by citations from a number of these, but I will content myself with one:—

'If at a period of national danger a breach of the law is demanded, if not by absolute necessity yet by stress of political expediency, the law breaker whether he be a General or other servant of the Crown who acts *bona fide* solely with a view to public interest may confidently count on protection by an Act of Indemnity . . . . . .

'Statutes of this description have been invariably, or almost invariably, passed after the determination of a period of civil war or disturbance and the very object is to protect officers and others who in the interests of their country have in time of common danger pursued an illegal course of conduct.'

These quotations are from one of the greatest writers on Constitutional Law, Dicey. In fact, we know that whenever there has been an insurrection or civil war, or invasion by a foreign power, Acts of this character have invariably been passed. There was one in England after the insurrection of 1715, again after 1745; we had one in this country after 1857, and more than one instance of such Acts is to be

found in the various Colonial Legislatures, including the Legislature of South Africa. Further than this, when a military officer is acting under the stress of such circumstances, in a crisis of great magnitude, it is essential that he must have behind him some sanction to enforce his orders; reference to ordinary Courts in such cases is impracticable. It would involve delay which would be fatal to the very object he has in view. Consequently summary measures, often stern and always of a very speedy character, are necessary if order is to be restored. There are some who think that these summary orders necessarily connote injustice and an undue degree of harshness, but it is not correct to think that this is either, the practice or the intention of many commanders. I should like to cite from the Martial Law Regulations passed in Lahore on this point. This is an order by Col. Frank Johnson, a somewhat well-known name.

'In order to prevent the occurrence of regrettable incidents it must be clearly understood that the institution of summary law neither necessitates nor justifies the committal of excesses, either in the maintenance of order or in enforcing obedience of martial regulations or the infliction of punishment. It cannot be too clearly impressed upon all ranks that temporary supersession of the ordinary process of civil law by the introduction of summary law does not mean that justice cease to be administered; on the contrary, the suspension of the usual safeguards make it doubly imperative that all concerned should bear in mind that it is up to them to see that justice and not irresponsible violence is administered.'

"It is however essential that the military authorities in such cases should have power to come to swift decisions of a most important character; power to take prompt action on all matters affecting the State; power to punish summarily and effectively those who endanger the peace.

"My Lord, it may be said that martial law was not necessary in the Punjab and that the Government made a mistake in proclaiming it. I do not seek to argue that point now. I believe that any such course would be unfair to those concerned, primarily or indirectly concerned, until the evidence of the facts has been recorded by the Committee of Inquiry. The decision on that matter must rest with the Committee in a great measure and after their report has been received, wih other authorities. But, irrespective of this question, the position of our officers must be protected. I do not know if

I make myself clear on that point. What I wish to say is this, whether martial law was necessary or not, our officers, our subordinate officers were bound to carry out their duties, and to give effect to the orders given them and they cannot be penalised on that account. I think the case has been very clearly put on this point by a writer in, I think, the 'Civil and Military Gazette' recently. He called himself 'An Indian Student of constitutional law' or by some such title. I commend that article to the consideration of Members of this Council.

"So far I have been dealing with the part of this Bill which deals with indemnifying officers of Government. The second part deals with the validating to a certain extent of a number of sentences which have been passed. I shall explain this in detail later, but it is clear, as I said before, that where military officers are given power to issue certain orders, it is essential that they should also have authority to enforce those orders. There must be some sanction behind them, some power of enforcing order speedily and effectively and in many cases—in fact I believe this is the normal course—summary Courts are appointed to administer justice in such circumstances. They do not deal normally with all criminal cases, but only with cases arising out of a breach of military regulations or cases connected with the disturbances, and I believe I am right, so far as the Punjab is concerned, in saying that the duties of the summary Courts were confined to this class of cases; but I speak subject to correction on this matter. It is sometimes supposed that these summary Courts, however, dealt only with petty offences, such as breaches of military law regulations. That is an entirely incorrect assumption, and if Hon'ble Members will see the Statement that, I think, was laid on the table here recently, if not I will have it so placed, they will see that the summary Courts dealt with many offences of great gravity, such as arson, theft, rioting, breaches of the Railway Act—and they are really very serious—and offences under the Telegraph Act, which really meant the endangering of all communications both between the Local Government and their officers and between the Government of India and the Local Government. Many of these men are now under confinement, and I want to make it clear to the Council that, unless their confinement

is now ratified in some manner, then the continued detention of these men in jail is illegal. In fact from the date on which martial law expired our only justification for retaining these men in custody was our intention to introduce an Act of this character at the earliest opportunity.

"My Lord, I will now, if I may, proceed to explain the Bill clause by clause. I will not deal with clause 1, which is of no great importance, but proceed at once to clause 2. That clause indemnifies any officer of Government, whether civil or military, from any action, civil or criminal, in respect of any matter or thing done for the purpose of maintaining or restoring order. But I want Hon'ble Members to read and fully consider the effect of the proviso to that clause 'provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes.' Those are really the governing words of the clause. I think I have already said, or at any rate I say now, that this Bill will in no way forestall the inquiry by the Committee, and I will proceed to justify that statement. I do not think that any member of this Council will for a moment suppose that the Committee of Inquiry, which assesses the blame for these disturbances, will recommend any form of punishment for any officer of Government who has acted *bona fide* and in a reasonable belief that what he did was necessary. Further, in any case the report of the Committee is not affected by this Bill. This Bill protects officers against proceedings in the Courts of justice. The report of this Committee, whatever be its value, will in no sense be evidence for the purposes of any case; that is a matter which can only be decided on evidence in the Courts. The Government of India have decided, for the satisfaction of their own conscience and to meet the public demand, to appoint a Committee to inquire into these disturbances, and their action on the report of that Committee will not be limited or barred by this Act in any way. This Bill simply deals with suits and legal proceedings, and really all that it seeks to do is to protect from legal proceedings *bona fide* action taken with a reasonable belief that it was necessary to suppress disorder, and not any action *mala fide* or without good reason. We make no attempt by this Bill at any rate to protect officers who have been guilty of excesses which cannot be justified by the terms of this proviso. Now I my-

self shall be much surprised and disappointed if the Council will not give protection to officers for actions of this character, actions which are morally right though they may be legally wrong, that is, actions for which no strict legal justification can be made out. If this Council says that in a time of this character when the country was in great disorder,—and I put it very mildly,—officers who acting on the understanding that martial law had been proclaimed by an authority which is superior to them, over whose actions they have no control, if officers acting on that assumption and acting *bona fide* and perfectly reasonably are not to be protected by Government, then the future prospects of Government officers is very serious. How can any member of this Council expect an officer to act confidently, firmly and decisively if he knows that this Legislative Council and the Government will repudiate his action at the first opportunity? Is he not entitled to come down here and say 'I have done what I was told. I have acted perfectly reasonably, I have acted fairly, I have acted *bona fide;* now give me that protection which I am entitled to by all constitutional practice.' My Lord, in a Resolution published by this Government some time ago, I think during the period of the disturbances, we solemnly promised that we would afford all those charged with the onerous duty of restoring order our full countenance and support, and it is in fulfilment of that promise that I now come to this Council and ask Hon'ble Members to ratify what we then promised, believing that that is a just and honourable course which must commend itself to all Members here. As I said before, I conceive it to be impossible that the Committee should censure any one who is not guilty, who has acted *bona fide* and in a reasonable belief, that his action was necessary, and the report of the Committee will not and cannot affect the liability of officers of Government in the Courts of law. That is the reason, my Lord, why I say that this Bill, which merely seeks to protect those who have done their duty, in no way forestalls the report of inquiry by this Committee.

"I now come on to section 3, and this is a section which, I am afraid, I shall have to explain at some length, because there exists considerable misapprehension about it. Section 3 says:

'For the purposes of section 2 a certificate of a Secretary to Govern-

ment that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"Now a certificate of a Secretary to Government only proves, and the Hon'ble the Law Member will bear me out here, that the act was done under the orders of an officer of Government. Many private individuals during these recent disturbances have assisted Government in various ways, many indeed have been of the greatest assistance to the authorities; and all that this portion of the clause says is, that if any man acted under the orders of an officer of Government and can get a certificate to that effect, thus far and no further is that certificate conclusive proof of that fact. The question of *bona fides*, as I understand the Bill, is a matter for the Court entirely. That is, a man will go to the Court and it will be for the Court to say, whether his action was *bona fide* and reasonable, and what fairer proposition could be put to this Council? When a man goes down the Court shall have power to say, 'yes, you did so and so, whether it was reasonable or not, that shall be judged by one of the Government judges acting in his judicial capacity.' My Lord, if there is any cause of complaint in this matter, it might well be on the side of Government officers, that the Bill does not go far enough, and if Hon'ble Members will look to the Act of 1860, which was passed after the Mutiny, they will see that the provisions of that Act went very much further than this, and that when a Secretary to Government there ratified the conduct of an officer, this ratification absolved the man altogether from any possibility of a suit; that is the kind of certificate which apparently some Hon'ble Members think that this Bill provides. It does not. If this Bill had come on for consideration after the Commission of Inquiry, after the whole of these matters had been investigated, it might have been possible to frame it in that way. It is true, however, that this clause does go thus far, that it provides that 'all action taken for the aforesaid purposes,' that is for restoring order, 'shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"My Lord, is a Government officer to be denied even that protection, that he shall be presumed to have acted in good faith, that he shall be presumed to be innocent until he is proved to be guilty! Is that too much to ask from this Council? Is that a reasonable request, or is it not? I believe also that a clause of this kind is a normal condition—I speak again subject to correction—of many Indemnity Bills of this character.

"My Lord, I now pass on to clause 4, which sanctions the retention in custody of persons convicted by summary Courts. I have explained to this Council that many of these men have been convicted of serious offences; that they are in reality dangerous criminals whom it would be most unsafe to release wholesale upon the countryside. I believe—I have been told this by the Punjab Government also—that any such release would not be compatible with the public safely. But I ask Members of Council to read this clause again with clause 6. Clause 4 says: that every person confined under or by virtue of a sentence passed by a Court, or any other officer acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue so until discharged by lawful order or released by order of the Governor General in Council.' Clause 6, however, again limits that and restricts the operation of that clause. First of all it says:—

'Nothing in this Act shall apply to any sentence passed or punishment inflicted by or under the orders of any Commission appointed under the Martial Law Ordinance, 1919.'

"Members of this Council are aware that various persons who have been convicted by the Commissioners appointed under this Ordinance have appealed to the Privy Council. It would obviously be improper for us to attempt in any way by an Act now to invalidate the actions of those Commissioners. The sentences depend for their validity upon Ordinances already passed. I do not propose to discuss the question of these Ordinances here for one moment, nor would it be relevant to this discussion. All I wish to point out is, that this Bill in no way affects sentences by Commissioners appointed under the Ordinances. Then there is a second limitation, that the Bill in no way prejudices the right of any person who thinks he has been dealt with unjustly to appeal to the Privy Council from sentences of these summary Courts. There is

no intention, even if there were the power, of which there may be some doubt, of interfering with that right. Any man who has been convicted by one of these summary Courts is at liberty to go and seek for leave to appeal to the Privy Council just as if this Bill had not been passed. I tried to make that clear because it has been suggested that in some way the action of this Government, in introducing this Bill, is intended to prejudice the authority and power of the Judicial Committee. It is quite clear to my mind that it is not so. It has been our deliberate intention to make that abundantly manifest to every reasonable man. At the same time, my Lord, I do admit that there are many men in this country, perfectly loyal citizens, men of weight and authority, who have grave apprehensions and felt great uneasiness as to many of these convictions. We believe that many of those apprehensions are ill-founded, but still there is no getting over the fact that there is this sense of uneasiness as to the correctness of all these convictions. That apprehension has been alleviated to a considerable extent, but not removed, by the admitted clemency of His Honour the Lieutenant-Governor and the debate on the Resolution to appoint a Committee to investigate these occurrences indicated I think, on the part of many Members of this Council, Members not hostile to this Government, not unreasonably opposed to everything we do, but Members who are ready to co-operate with Government in this matter, in all matters, and who really seek to do what is right—uneasiness in the mind of many Members of this Council and a feeling that some of these sentences had not been examined with sufficient care; and there was further indication of that feeling in the proposal made for revising the terms of reference to the Committee. I think Hon'ble Members will remember the various suggestions. Well, to meet these apprehensions the Government of India have decided to have all these cases examined and revised by two Judges of the High Court, one being an Indian and one being a European, in order that they may recommend to His Excellency the Viceroy or the Governor General in Council, as the case may be, through the Local Government, such action as they think fit, either in the direction of remitting or commuting sentences, or any other course they may think desirable, having regard to the circumstances of the case. My

Lord, it is the desire of the Government of India that full justice should be done in this matter. They are as anxious as any Member of this Council that innocent men should not be detained in jail. One point, however, I have not made clear, and that is, that our intention is that only the cases of those men who remain under sentence should normally be inquired into by these Judges, though they will also deal with any other cases which may specifically be referred to them by His Excellency or the Government of India.

"Now, I do hope that this will meet the approval of Council and indicate the desire of Government to prevent injustice. I believe that such a Tribunal as we propose, being composed of judicial officers, will be far more effective for the purpose of seeing that justice is done than any Committee of Inquiry which may be appointed to investigate the general occurrences. For, not only will the officers have the advantage of judicial experience, but, by reason of their being on the spot, they can be not to work immediately and directly. So that I hope the matter will be dealt with with reasonable expedition.

"There is only one other clause in the Bill, clause 5, to which I need draw attention, and that provides for the payment of compensation where the property of any person has been commandeered by the military authorities. Members of this Council are aware that when martial law is declared and when the military authorities take over control, they frequently have to, and frequently do, commandeer property for their own use, if such action is in the public interests necessary. All that this clause proposes is, that the Government should pay compensation for such commandeering and provides the means by which the compensation may be assessed.

"My Lord, summarising what I have said, I want to make one or two points quite clear. First, this Bill is the inevitable consequence of martial law. Whether martial law was necessary or not, we must at least protect our officers. The Bill will not in any way forestall the decision of the Committee of Inquiry. The indemnity of officers is limited, and reasonably limited, to those who have acted *bona fide*, the question of *bona fides* will be decided by the Courts, and the validating clause, to which I have referred already, does

not affect either any case tried by the Commissions or any right of appeal to the Privy Council. Further, in order to prevent any injustice, and, so far as we are able, to enable us to exercise clemency, so far as is compatible with the public safety, we will have the cases of the men convicted by these summary Courts and still in jail revised by two of the best judicial authorities that we can procure. My Lord, I contend that this is a reasonable Bill, a Bill of the most moderate character, and that it only affords such protection as it is essential for us to give to our officers, which they have a right to demand of us and which it is our paramount duty to give them. I may be asked, why the Bill is introduced at this season. Indeed, I promised the Council to explain this, and, having regard to what your Excellency said, if I am only to speak once both on the Bill and the amendment, save for my right of reply, I ought to explain now why the Bill is introduced at the present juncture. The reason is very simple. If it is not passed now, if it is not brought into effect now, then our officers, officers who, *ex hypothesi*, have behaved fairly and properly, will be left liable to suits at the instigation of any malicious person. Is that reasonable, is that fair? I may be told that no suits will be brought in the immediate future. My Lord, suits might be brought, might even be decreed against them before any Bill was brought in this Council, not against men who have acted *mala fide*, but against those who have merely done their duty with the greatest care and in the most reasonable manner. I say to this Council that that is a position to which no reasonable man here can ask us to submit our officers. Many of the men against whom suits might be brought, against whom action might be taken, may have gone from this country. Should they be left with this sword of Damocles hanging over them although they have done nothing to deserve it? Is that fair? Then, there is another point. If this Council does not validate the detention in jail of these criminals, to whom I referred just now, then we shall have at once to release the whole number of these dangerous offenders on the world. I have told you that we have consulted the Punjab Government on this matter, and they were definitely of opinion that such a release was not compatible with the public safety. The men are not convicted of minor petty offences

at all; they are men who were engaged in the burning and looting of stations, in the attacks on railway lines and in the cutting of telegraph wires, guilty of theft and very many of them of arson. They are a class of men who cannot be released with safety at present, and I submit that this Council will be well advised if they do not ask us to release them. My Lord, looking round the Council here, I see many members, who have large vested interests in the country. I should like to know how long they would retain their property, their wealth or even their lives if the forces of disorder were once to break loose in this country. I ask the Members of this Council to look at the question in that light. Is it not their bounden duty to afford protection to those who have undertaken terrible responsibilities in times of difficulty and done their duty *bona fide* and honestly? That is the question that I put to each Member here. I want them to visualise what the position of an officer of Government in such circumstances is. Take the case of a young military officer. He does not know whether martial law has been rightly or wrongly proclaimed. He is told that the country is in disorder and that his duty is to suppress it. He tries in a reasonable and fair way to carry out what he believes to be his duty, and then, when he comes to this Council for protection, my Lord, are we to say, 'No, we cannot give it to you until an inquiry has taken place,' or 'Postpone it till some other day.' I do hope and trust that this Council will not endorse any such monstrous proposition. It is often assumed that it is only Europeans and Government that are interested in the maintenance of order. Hon'ble Members know that that is not so. Once rioting breaks out, who are the people who suffer? At least some Hon'ble Members of this Council know that they would be the first—their whole existence depends on the maintenance of law and order in this country. And how can they expect, how can any Member of this Council expect, military officers of Government to do their duty unless they receive reasonable support? A military officer is in a position of peculiar difficulty. If he does not suppress disorders, he is liable to censure, blame and punishment at the hands of his superior officers. If he does not take adequate measures, he may be removed from his office. Why, even civil officers in England have been held to blame for action

of that kind. Take the case of the Mayor of Bristol. After the Bristol riots he was accused of failing to do his duty in not having taken adequate measures to quell the disorders and he was prosecuted. But, apart from his personal responsibility, every officer of Government in this country is responsibile under the system of administration for the lives and property of many hundreds and thousands living under his charge. Let each Member visualise to himself what his position would be faced with these difficulties, often with insufficient forces at his disposal to cope with disorders, doing what he thinks to be his duty, acting according as God gives him to see the right, and then being penalised and held liable to prosecution and persecution afterwards for no reason whatsoever.

"My Lord, I have spoken with some heat because I want to make it plain that I conceive that refusal to grant the limited protection which we ask for our officers would be a gross injustice to those whom we have solemnly undertaken to protect.

"My Lord, I have attempted throughout my speech to say nothing that can in any way prejudice the result of the inquiry by the Commission. I have dealt solely with principles, not with particular actions. Whether any particular action was reprehensible, whether it was right or whether it was wrong, is not a matter which comes within the scope of this Bill. That is a matter either for the Committee of Inquiry and subsequent action by Government or for decision by the Courts. I have endeavoured throughout my speech to avoid saying anything which may prejudice the inquiry. I have also endeavoured, and I hope successfully, to avoid saying anything which might promote racial ill-feeling, and I would ask Hon'ble Members who follow me, so far as they are able, to follow the same course, remembering always how far the deliberate promotion of racial feeling—no, I will cancel that word 'deliberate,' for I do not wish to excite any bitterness myself—I will say ill-feeling has been responsible for the deplorable loss of life, and for the terrible happenings in this country. I would ask each Member of this Council, in speaking to this motion, to realise that any intemperate language of his which may revive or promote such ill-feeling is a great danger, and to remember that the man who uses it is

rendering a real disservice to this country and is pursuing a course of conduct the dangers of which, in present circumstances, it is difficult to overestimate."

THE HON'BLE MR. KAMINI KUMAR CHANDA:—"My Lord, may I respectfully inquire of the Hon'ble the Home Member if this committee of judges will go into the question of conviction also and not only of the sentences?"

THE HON'BLE SIR WILLIAM VINCENT:—"If it will make any difference to the Hon'ble Member's amendment, I shall be very glad to give this information."

THE HON'BLE MR. KAMINI KUMAR CHANDA:—"My Lord, I beg to move this amendment which stands in my name and it reads as follows:—

'That the consideration of the motion do stand over till after the submission of the report of the Committee of Inquiry into the Punjab affairs.'

"My Lord, I wish at the outset to assure your Excellency and the Council that I have not taken upon myself to move this amendment with a light heart. I have listened to the very impressive and very weighty utterance of the Hon'ble the Home Member, and I am aware that your Excellency's Government is convinced of the imperative necessity, according to their information, of this legislation; and if I move this amendment, not to oppose the passing of this Bill, but for the purpose of postponing its consideration now, I can assure the Council that it is due to an impelling sense of duty. I have given the matter my most serious and, I may add, anxious consideration, and I felt it to be my duty to place this amendment before the Council. In doing so, regard being had to the considerations which the Hon'ble the Home Member has so impressively and eloquently pleaded for, in proposing my amendment in view of the circumstances, I propose to avoid, as far as possible, all debatable matters. Of course a certain amount of controversy and dispute is inevitable; I shall try to minimise it. There are so many matters to speak about and there is no time limit, and there might be a temptation to go on for a long time, but, my Lord, I shall try to be very brief; and for this purpose I do not propose to go into any individual cases about which it is charged that the administration of martial law has been guilty of excesses. There is one

other remark which I wish to submit before I go into my motion. My Lord, it is a matter of great regret to us, I consider it almost as an irony of fate, that this painful episode in the administration of the Punjab Government should have to be discussed after His Honour Sir Edward Maclagan has assumed charge of the province. We know that in the short time he has been in charge of the province he has endeared himself not only to the province but to the country as a whole. It is well-known that every one heaved a sigh of relief when His Honour was able to take charge of the province. I am sure His Honour will understand that in bringing this matter at this stage, after His Honour has been in charge of the province, it is only from a painful sense of duty that we do so.

"Now, coming to the amendment, I may say at once that I agree to the general proposition which has been stated by the Hon'ble the Home Member, and which is also mentioned in the Statement of Objects and Reasons of the Bill, namely, that after a period of martial law such legislation is inevitable. In fact, I think the Hon'ble Member might go further and say with Professor Dicey whom he has quoted that in England such legislation is undertaken before the suspension of the Habeas Corpus Acts runs out. That is so in England; but, my Lord, my submission is this that the cases are not really analogous; the conditions obtaining in England are not the same as in this country. In England, it is well-known that it is the British Parliament with whom rests the question of the suspension of the Habeas Corpus Acts. Here under the Statute, it is your Excellency in Council who have to declare martial law. Therefore, the necessity which might exist in England for an Act of this kind does not necessarily exist in this country. Now, that apart, if we inquire as to why it is usual that in England suspensions of the Habeas Corpus Acts are always as a matter of course followed by a Validating Act, we shall see that that is because there has been up to now no case where the question of the necessity of the suspension of the Habeas Corpus Acts has been raised. It has always been accepted that there was clear necessity. Where there is undisputed necessity for the declaration of martial law or suspension of the Habeas Corpus Acts, of course the Validating or Indemnity Bill will follow as a matter of course. But, my Lord, here the case is different.

Here it has been denied, it has been disputed that there was any necessity for this declaration of martial law. The public have complained that martial law was declared on insufficient, inadequate grounds; that there are grave doubts whether under the existing conditions it could be legally done, and that there have been excess under that declaration. In view of all this that differentiates the case of India from that of England, I say, my Lord, that the question as to why while I do admit that a validating or indemnity Bill follows as a matter of course the declaration of martial law or suspension of the Habeas Corpus Acts, I oppose this motion or rather move that this motion do stand over does not arise. If the question can arise, my Lord, I submit the answer has been given to this by the Government themselves. I do not think there has been any case anywhere where there has been an inquiry about the necessity of martial law. I do not think there has been any case in India where a Committee of Inquiry was appointed to discuss and to investigate the necessity or legality of a declaration of martial law, but here the question was raised and the Government of India accepted straightaway the challenge as it were, and appointed a Committee of Inquiry to go into these matters. I submit, my Lord, that that has made all the difference. No doubt the composition of the Committee and the terms of reference do not fully satisfy the public demand; but that is another matter. Now, my Lord, what are the scope and the functions of this Committee of Inquiry? We learned from your Excellency's speech on the 3rd that the Committee of Inquiry was to inquire into and report about, among other things, the measures taken to cope with the disorders in the Punjab. What were the measures that were adopted in the Punjab? It is no other than the declaration of martial law. The question that arises is, whether there was any necessity for that declaration, whether it was proper to declare martial law, whether under the conditions obtaining at the time there was legal power to declare martial law, and whether it has been carried out properly. These are questions, my Lord, that this Committee will have to decide. Now what is the reason, the justice, the necessity for this Bill? If we look to the Preamble of the Bill we see it is stated:—

'Whereas owing to the recent disorders in certain districts in the

Punjab and in other parts of India, it has been necessary for the purpose of maintaining or restoring order to resort to martial law.'

'Resort to martial law.' These, my Lord, are the very matters which this Committee of Inquiry will have to go into and report on; that is the basis of this Bill. I submit that that can hardly be fair. I submit that having referred this matter for inquiry by this Committee, the Government of India have divested themselves for the moment of the power of going into this matter. If you go on with his Bill then what is there remaining for the Committee to go into? What will remain, if you now assume that there was necessity for martial law, what would remain for the Committee to inquire into? Whether there was any necessity for martial law? But we are told by the passing of this Bill that there was a necessity, for the declaration of martial law. This is surely prejudging the question, it is tying the hands of the Committee, it is not fair. My submission is that on this ground you are prejudging the question. The Committee are in possession of the seizin as lawyers call it of this matter. This Council has no jurisdiction to go into the matter at this stage. Of course as the matter has been referred to the Committee, it would not be right for the Council now to go into the question, as to whether the declaration was necessary or legal, or whether it was properly carried out. My submission is this that, in view of this and in view of the complaint that martial law was improperly and illegally declared, I think we ought to state the case on which this demand is made. My Lord, what is the law under which this martial law has been declared? It is the Bengal State Offences Regulation, X of 1804. What are the conditions under which this Regulation can be enforced? The Preamble says that there are two conditions, in the first place, it must appear that the British Government is at war with any other power, or that there was a state of open rebellion in the country. These are the two conditions which give jurisdiction to the Government to enforce this Regulation in any place it wishes. Nobody will contend for a moment that at the time this declaration was made the British Government was at war with any other power. Then we have to fall back upon the second condition, namely, that there was a state of open rebellion in the country. On what is this condition based? What is the

proof that there was open rebellion in the country at the time? My Lord, it is well known that after the Rowlatt Bill was passed in the teeth of opposition from the Indian members of this Council and the country, Mr. Gandhi, as a last resort, declared Satyagraha or passive resistance. We need not go into the question whether it was wise or not; it is a fact that he did so and the 6th of April was appointed as the Satyagraha day to be observed in the country as a day of humiliation and prayer on which all business was to be suspended. We know that that was done in the country and that there was no disturbance anywhere. Now what about the Punjab? Was there any response in the Punjab to this appeal of Mr. Gandhi's? Now before going into the question I may tell the Council that on the 7th April His Honour the Lieutenant-Governor, Sir Michael O'Dwyer, held a Durbar and delivered a speech in the course of which he said 'From the Prince's palace down to the peasant's hut I find I can meet Punjabis of whatever class or condition without any suspicion or mischief.' That was on the 7th April. Surely this language could not have been used by the ruler of the Province if there was anything like rebellion there. It is inconceivable that such language could have been employed if there was anything indicating in the remotest degree that there was rebellion in the province, not only at that time but even a week after when martial law was declared. But what happened when this appeal of Mr. Gandhi was published, how was it received in the province? There is an account published in the 'Civil and Military Gazette,' a newspaper which is not as a rule friendly to Indian aspirations and public movements. It is there stated that between 1 and 2 P.M., crowds had collected in the city and moved towards the Town hall where a meeting took place to protest against the Rowlatt Bills. This meeting was held between 5 and 6 P.M., the proceedings were orderly and no disturbance occurred in the city or outside the hall. Then what took place at Lahore on the 6th of April?

"We find, moreover, my Lord, that it was not only at Lahore, but at Ferozepore, Gurdaspore, Hissar, Jullundur, Mooltan, Muzzaferpore, Rohtak, Sialkot and Simla, demonstrations and *hartals* were observed but there were no disturbances. Is that the sign of open rebellion which somebody seems to have discovered in the Punjab? I think, my Lord,

in a sense it might be said to be rebellion. We know that Sir Michael O'Dwyer was in the habit, both in season and out of season, somewhat aggressively, of priding himself that his province was the quietest, the most loyal and the most well-behaved of all the provinces in India and from which he was able to drive out the disease known as political agitation. Now these demonstrations in their intensity and widespread character must have shocked His Honour, awakened to a grim and unpalatable reality and forced the realisation to him most unwelcome, that his province was going to be infected, converted to the evil ways of the other and vicious provinces. We get an insight, we get some glimpse into his inner thoughts, if we turn to the speech of His Honour which he delivered at the Durbar the following morning when he said this: 'that the British Government which has crushed foreign foes and quelled internal rebellion could afford to despise political agitators.' Now what was the occasion for this remark, my Lord? I say that explains the psychology of the subsequent orders and proceedings. Well, I might point out that there were not only these demonstrations in utter defiance of his wishes, almost as a challenge to him, but what is more, the horror of horrors, there was at the time going to grow up what is called the Hindu-Moslem fraternisation. We read in the 'Civil and Military Gazette' on the 9th April: 'At Lahore there was a procession held accompanied by extraordinary scenes of Hindu-Moslem fraternisation. In Amritsar, the procession showed similar scenes of Hindu-Moslem fraternisation, speeches were delivered and votes of sympathy were passed with the Delhi martyrs.' It is exceedingly significant that that was placed as a piece of evidence in a case before the Martial Law Courts as evidence of rebellion. My Lord, this state of things, these demonstrations and *hartals*, and these scenes of Hindu-Moslem fraternization certainly were very uncomfortable, and it was felt that something must be done, some steps should be taken to nip in the bud the incipient rebellion in the Province, and we find that the first overt act in this campaign against political agitation was that on that very night Mr. Gandhi who was then on his way to Delhi on a peaceful mission was obstructed under the orders of His Honour the Lieutenant Governor at a small station called Kosi, which is in the Punjab territory, and turned back

and was escorted to Mr. Gandhi's province, Bombay. Well, that was wired all over the country as the arrest of Mr. Gandhi. What was the result? We know there have been very unfortunate happenings throughout the country. Now, my Lord, it is usual for the Anglo-Indian papers to put down these happenings to agitation against the Rowlatt Act. My submission is, my Lord, that the Rowlatt Act can no more be held responsible for these happenings than the action of Sir Michael O'Dwyer, which was described by Mr. Kali Nath Roy as an act of blazing indiscretion for which he was sent to jail for three years. Well, my Lord, let us see what happened in the Punjab. I say the news of the arrest of Mr. Gandhi was received at Lahore on the afternoon of the 10th. Let us see what happened there. But there is a difficulty here to find out what happened. On the following morning, the 11th, Sir Michael O'Dwyer acting under the Defence of India Rules, passed an order muzzling the Indian press, prohibiting the publication of any account that took place on the previous day. Now why this anxiety to keep the outside world in the dark as to the happenings at Lahore on the 10th? Therefore, the public outside Lahore, we, had to rely on the Government Communiques and the accounts given in the Anglo-Indian press, for the events that took place at Lahore and other places on the 10th. Of course the Anglo-Indian press were evidently able to be above the orders of Government with regard to the publication of accounts of any events. The Government Communique is this: This is dated the 12th April:

'Lahore. The shops in the city and its vicinity were closed and a noisy crowd endeavoured to force its way towards the Civil Lines. This crowd was met with a small police detachment near the High Court, and on its refusal to abandon its progress was dispersed, under the orders of the District Magistrate by musket fire. At a later hour in the evening, the police were again compelled to fire on a disorderly crowd which attacked them with missiles in the vicinity of the Lahori Gate. Two persons were killed in the day's firing and about four others wounded.'

These are the words of the Government Communique, and the account that was published in the 'Civil and Military Gazette' was this:—

'A crowd collected in the bazar which rapidly grew and started coming down Anarkali. Then the mob which had assumed a very threatening

attitude proceeded down the Mall. By this time police were out in force, and a party of them stopped the mob. The Deputy Commissioner then arrived, and seeing the seriousness of the situation and the impossibility of stopping the mob by any other means gave the order to fire. This produced some result, for the crowd went back and were forced up Anarkali Bazaar. Then they formed at the top of the Bazaar where they had to be dispersed again by fire . . . . The arrangements throughout were in the hands of the civil authorities as, thanks to their immediate and effective action, the necessity did not arise to ask the military to take charge.'

"But the 'Pioneer' went one better and in its account on the 13th it says:—

'The European residents, already disturbed by the news from Amritsar, had to face a serious situation created by an infuriated mob which was bent on mischief. *Large forces of military and the police promptly dealt with the outbreak, and on more than one occasion had to fire on the mobs.* Strong action resulted in the restoration of order and the city is now being patrolled. . . . . Buckshot cartridges were used.'

"But on the following day it says:—

'Buckshot was supplied to the police, *except for* 5 *rounds of ball issued by mistake.*'

"On the 20th there was another Government Communique to contradict what appeared in the 'Leader' about this, and this is what it said:—

'The facts are that despite orders previously promulgated forbidding processions, a large crowd, probably of some thousands, marched from the city up the Mall, forcing back a small body of police which tried to bar their progress. The crowd consisted of city rif-raff and students, but the latter were grown up and not boys. The crowd was making its way to the civil station and would undoubtedly have committed excesses such as marked the Amritsar occurrences, had it been allowed access to the European quarters.'

"These are all the accounts published by Government and the Anglo-Indian papers of the occurrences in Lahore on the 10th. What do they say? Never mind for the present that there are serious contradictions. Take the account substantially as it stands. I ought to mention, my Lord, that there is another fact. The 'Civil and Military Gazette' on the 16th of May stated that the Deputy Superintendent of Police was struck on his head which had to be bandaged. Now it is remarkable that this incident

is not mentioned in the Government Communiques nor in the Associated Press telegram. As a matter of fact, this police officer was struck, his head was broken, there was a split. How is it that this incident does not find a place in the Government Communiques? The fact of the matter is that, as was discovered by the 'Civil and Military Gazette' later, it was 'caused by a policeman by mistake' and not by the mob, that is why it was not mentioned by the Government Communique. Now take the accounts as they stand, what do we find? That a mob, unarmed, it must be remembered, unarmed, 'of city rif-raff and students,' to quote the words of the Government Communique, were making their way from the city towards the Mall. What happened? It does not appear that any serious attempt was made to persuade the mob to go back, that civil force was attempted. But from a sense of panic the order to fire was given and there were casualties. What did they do? It is not stated anywhere that they did any injury to any one or destroyed any property on their journey from the city to the Mall. It was asserted in the latest Government Communique that they would have done mischief, but why is this assumed, it is not stated that up to then anything was done by that mob. Well, what were the objectives of the mob? Was an inquiry made to find out why this mob was proceeding towards the Mall? It was unarmed it must be remembered. Well if the object was to do any wrong, to break the law, is it conceivable that 'this rif-raff and students' would go unarmed, or would refrain from doing anything in the city or in their journey up the Mall? No inquiry was made as to why they were journeying to the Civil lines. If an inquiry had been made it would have been found that their object was nothing more than to interview His Honour himself and to intercede with him and ask him to withdraw that order against Mr. Gandhi. But what happened? This march of the unarmed mob of city riff-raffs and students was the first overt act of rebellion. Anyhow, my Lord, whatever happened then, it was put down in the course of an hour if it was a rebellion, it was quieted in an hour's time. We read in the Government Communique 'that by 8 P.M., the city was quiet; after that time no further disturbance occurred.' Thus in an hour's time this rebellion was put down.

"Then what happened on the following day, on the 11th? We find again from the Government Communique that on the 11th everything was quiet. Well, is that a sign, my Lord, of any rebellion at Lahore at the time? The solitary instance mentioned is that a mob of some three or four hundred people, unarmed, 'city rif-raff and students,' were proceeding towards the Mall, and assuming that they were rioters, they met with their deserts because they were fired on by the armed police and there were some casualties, but after that everything was quiet and there was nothing on the following day. Then, on the 12th, what happened? On the 12th the Government Communique says:—

'On the morning of the 12th troops passed through Lahore city and occupied certain commanding points. At one point only the crowed *obstructed the passage* of the troops and brickbats were thrown. The police accompanying the march, under the orders of the District Magistrate, dispersed the crowd, two being killed and as many were wounded.'

"And the 'Civil and Military Gazete' on the 13th says:—

'The rendezvous for the march of troops and police through the Lahore city was the cross roads outside the railway station at 9-15 A.M. The crowd in front of the fort in Minto Park had to be forced back and the cavalry dispersed it without using their lances. The crowd, however, came in again behind *in rear of the cavalry* and the Deputy Commissioner ordered a detachment of police to get behind the cavalry and fire.'

"And there was an Associated Press telegram which says that 'more than a dozen had been wounded, some of them having received serious wounds. One of them who received 9 wounds on the chest died this afternoon. Nearly 10,000 people attended his funeral. The deceased was a student of the 4th year class and had come here to sit for the University examination.'

"Now, my Lord, as to the assumption that brickbats were thrown at the military, as stated in this communique, it will be seen, neither the 'Civil and Military Gozette' nor the Associated Press telegram corroborates this. However, assuming that this was done, would that constitute rebellion, or would that make it a clear sign or proof that there was rebellion in the city so that you would have to declare martial law? Has it been inquired into by whom and under what circumstances these brickbats were thrown? There is a discrepancy again.

One account says the cavalry were obstructed in front and brickbats were thrown, whereas another account says that when they passed through the city the mob came behind and threw brickbats? However, leave that alone. Does that alone constitute a state of rebellion in the city?

"My Lord, I have tried my best to see if there was any other case of rowdysm. I said there was no account published in the Indian papers or any other information than the Government Communiques and the accounts in the Anglo-Indian papers and there is no allegation of any of this unlawful act anywhere.

"My Lord, beyond these two incidents, one on the 10th and one on the 12th, I have not come across anything mentioned in the papers as having taken place in Lahore. Well, I should feel grateful if the Hon'ble the Home Member will inform the Council if there was any other occurrence in Lahore, which justified the Government in declaring martial law. After this, my Lord, on the 14th, martial law was declared. We do not find on what grounds this order was based. Of course, attempts were made by interpellations in this Council to find out the grounds in justification of martial law, but they have not been answered. Martial law came into force at midnight between the 15th and 16th. Several days later, by another Ordinance, No. IV, this martial law was given retrospective effect so as to cover everything that was done from the 30th of March. My Lord, it is a serious question as to whether this can be done under the law. The matter has been placed before the Privy Council in the appeals which have been admitted, and we shall know the decision of their Lordships. Another question, my Lord, in this connection is, whether this could legally be done. We find, my Lord, that Lord Wellesley, in whose time this State Offences Regulation of 1804 was passed, issued instructions for the guidance of the Local Government and therein it was stated (Circular of the Marquis of Wellesley, dated the 11th April 1805) 'Even if a person or persons charged with any overt acts of rebellion specified in Regulation X of 1804 shall be apprehended by any military officer, when not in the actual commission of offences of that description, they are to be delivered by the military to the civil power.' That was laid down in the Instrument of Instructions regarding this Regulation, and

the Regulation itself shows that only charges against persons caught in *flagrante delicto*, that is red-handed, could be tried by martial law, and that was expressly declared in the Instrument of Instructions. Furthermore, my Lord, it appears that the Government of Bengal consulted the Advocate General, Mr. Spankie, at the time, and his opinion was to the same effect. Now, my Lord, this question becomes a serious one as to whether retrospective effect could be given to this Regulation by Ordinance No. IV. My submission is that here also the matter is before the Privy Council which has got seisin of the matter, and if you ask this Council now to decide, it would be wrong; you cannot go into this before their Lordships have decided the question as to whether martial law was rightly or lawfully given retrospective effect to by Ordinance No. IV. And this Bill is based upon the assumption that the order was legal, because it is stated in the Bill that anything done between the 30th of March and the date of the passing of this Bill will be protected. Therefore, my Lord, taking all these questions into account, it would not be right to ask this Council to pass this Bill at this time. We must wait for the finding of the Committee, we must wait for the decision of the Privy Council on the questions raised as to the legality of the promulgation of martial law and the giving of retrospective effect to it. Well, let this Committee have a free hand to go into the matter, sift out facts, find out what was done, and then it will be time enough to go into the question of protecting the officers of Government who had carried out the instructions under martial law. The Hon'ble the Home Member has raised the point that, even assuming that martial law was not properly or legally promulgated, the question of protecting the officers of Government remains because it is no fault of theirs that they were called upon to carry out these orders. Now, my Lord, everything depends upon what the orders were and how they were carried out. You cannot say beforehand that you will pass a general law that every officer is protected for anything he did under any order given. Well, so far as that matter goes, that is already provided for under the existing law. Under the Penal Code if a public servant carries out an order given by a superior, whether legal or illegal, how far he is bound to carry it out is provided for in the general law. If the Committee finds out any specific

innstances not covered by the existing law, then it will be time enough to consider how far that law has to be supplemented. My submission is that at present we have got a general law. Then, my Lord, even in England instances have occurred where officers commanding the military have had to undergo prosecution for excess of zeal in discharging their duty when their services were requisitioned. In connection with the riots in Country Clare in Ireland in 1852, a jury brought in a verdict of guilty of murder against the soldiers who had fired on a mob, but for which they would have lost their own lives. So, I submit, my Lord, that it is premature now to consider this point. The whole thing will depend upon what orders were given, how those orders were carried out. At present all that we need consider is provided for in the general law.

"Then, the other point raised by the Hon'ble Sir William Vincent is that, if you are to wait, there will be actions brought against Government officers and they may be decreed. My submission on this is that it is purely imaginary. If any action is to be brought by any man for damages against any officer of Government for anything done during the time martial law was in force, we know that probably at first notice will be given to Government or the Government officer concerned, and after the expiry of the statutory period only can a suit be filed. Then, assuming that no notice is given but suit filed, the mere fact that a suit is filed need not frighten us. Civil suits, it is well known, are not disposed of as expeditiously as criminal cases. Well, a plaint is filed, then a date will be fixed for the defendant to enter appearance and file his written statement. I do not know what the practice in the Punjab is, but I know in Bengal and Assam no date is fixed earlier than three weeks' time. Well, my Lord, if the defendant has to enter appearance before the Council meets the next time, surely the Courts concerned would be bound to grant postponement for filing written statements in such contingencies. Usually, you find in civil cases, two or four months, or even one year has been given for written statements in complicated cases. And in a case of this kind no Court will refuse to grant time for adjournment till the next Session of this Council at any rate. From now till the Delhi Session there is enough time. First notice will have to be given two months before any suit is filed, and even after the suit is

filed, you will get ample time to have the case adjourned till the meeting of the Delhi session of this Council. Even if that is not enough you can easily provide for it in various other ways. You can pass the Bill in the Delhi Session and give it a retrospective effect so that it will cover any suit or action that may have been filed already. You can do more; you can have some provision suspending all these actions in the meantime, till the Council meets at Delhi. Apart from the questions arising from the fact that a Committe of Inquiry has been appointed, I think we should consider that public discussions of the happenings in the Punjab are bound to create some bad blood and should, if possible, be avoided, and that can be avoided if the Council does not rush through with this Bill now. Let the Committee inquire, find out the facts, sift out the facts, and then we can see how far officers ought to be protected, and how far there ought to be an indemnifying Act. These are my submissions on which I respectfully venture to think that this Bill ought not to be passed at this stage. I spoke only of Lahore, but the same considerations apply as regards other places. With these remarks I place the amendment before the Council."

THE HON'BLE SARDAR SUNDAR SINGH MAJITHIA:—"My Lord, I must confess that some of us, non-official Members, who are not well versed in legal technicalities—being laymen so far as law is concerned—are placed in a very awkward position when they are required to assent to a measure like the one we are discussing to-day and for the introduction of which leave has been asked by the Hon'ble the Home Member. Persons like myself feel the weight of responsibility very heavy; I cannot say for others but for myself I have felt very keenly. We have, as dutiful subjects of the King-Emperor, a duty to His Majesty the King-Emperor and to the Government established under law in this country; but, on the other hand, being representatives on this Council of the people we owe a duty to our fellow subjects which we have to discharge to the best of our abilities. I can assure your Lordship that I have been feeling this responsibility very keenly and the tension on my feelings for the past few days has been very great. Under such circumstances one could only bow before the All Omnipotent for light being granted for guidance in the path which may be the right path.

"When I first heard of the Indemnity Bill I was under the impression that we were to be asked to indemnify all actions of Government officers, whether they were done in good faith or not. Till I had seen the Bill, I was under this impression and as such I felt that I could not give support to such a measure, knowing as I do some of the inconveniences and indignities that some of my countrymen have suffered during the currency of the martial law in my province. I have not the remotest inclination to defend those who have broken the law, and I have no hesitation in saying that no Government can afford to let such actions go unpunished. No man who loves peace and order could possibly side with such people who break law and commit atrocities which cause feelings of horror and contempt in the minds of right-thinking and law-abiding persons. But, on the other hand, one cannot shut one's eyes to some of the doings in my province. My Lord, this, however, is not the place to talk of those things. So I would not touch that point at all, as I believe and as I think that they are to be sifted into by the Committee of Inquiry that has been appointed by your Excellency. On the other hand, I would not withhold protection to those officers of Government who have done their duty during these trying times conscientiously, and whose actions have been taken in good faith and in a reasonable belief that they were necessary for the maintenance of law and order in the country. I understand that after martial law an indemnifying measure has always been enacted. Such a measure was passed in 1860 in India. I am not a lawyer, but I am told that that measure was of a more severe nature and went much further than the one introduced to-day. I am also told that indemnifying measures have been passed in other countries also, such as South Africa and nearer home at Ceylon. I would therefore be prepared to give my assent to the measure before us to-day; but I want to be assured fully that Government has no intention to afford protection to those who have acted against the strictest sense of justice and against good faith. Though personally I have no doubt on this point and I am sanguine that Government have no intention of that sort, but an assurance of this nature will satisfy public opinion in the country. One thing more, before I give my assent to the measure before the Council. I would like Government to agree and con-

cede that all cases tried under martial law will further be examined and that wherever injustice is found to have been done, those who are detained in jails will be given their liberty. I am glad that the point has been conceded and that two High Court Judges will revise these judgments and I thank Government for this. I have no wish to ask any clemency for those who have committed atrocities; but on the report of the Committee of Inquiry I would suggest that amnesty be granted, as I think that many of these unfortunate persons have in the heat of the roused feelings been led astray from paths of righteousness and of their duty as law-abiding citizens of the Empire. With this assurance that the Act does not white-wash all actions done in bad faith as against good faith and with the promise of a further reconsideration of the cases tried by martial law courts, I would give my assent to the measure before the Council. I have avoided making any mention of the unfortunate happenings in my province as this Council Chamber is not now the right place for these to be ventilated. They are in a way sub-judice and till the report of the Committee of Inquiry is published, we must suspend our judgments. The other day I asked for an assurance for the protection of persons who come to tender evidence before this Committee of Inquiry. I understand that the Home Member is willing to give that assurance and that steps will be taken to duly proclaim this to the people. I would, therefore, beg my Hon'ble friends and colleagues to refrain from bringing in matters which are now in the province of the Committee of Inquiry to inquire into and sift."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, the measure which the Hon'ble the Home Member has asked for leave to introduce is one of the most important measures which have ever been proposed by the British Government in this country, and it calls for every careful consideration. My Lord, the Hon'ble the Home Member has said that where there is disorder and it has been found necessary to proclaim martial law, certain acts have had to be done which may not be strictly justifiable in law, but may be morally defensible, and that an Indemnity Act almost as a natural consequence followed. Now, my Lord, the Hon'ble Member having raised the question, as it

was necessary for him to raise, under what circumstances martial law should be introduced and under what circumstances an Indemnifying Bill or Act is permissible or justifiable, it is necessary for us to go somewhat into this question. I am not going far into the earlier Acts; I shall start with the period mentioned by the Hon'ble the Home Member, the year 1715. Members of this Council will remember that that was the year in which James the Pretender came over to England, and wanted to wrest the throne of England. 6,000 Highlanders from Scotland joined his forces and there was a regular invasion, an invasion in which there was regular warfare, there were not merely riots and tumults, but actual war waged against the Crown of England. The Pretender was defeated and it was necessary to justify the acts which had been committed in the suppression of that rebellion; it was in these circumstances that Parliament passed an enactment like this. Chapter 39 of George I, says:—

'An Act to indemnify such persons who have acted in defence of his Majesty's person and Government and for the preservation of the public peace of this Kingdom in and about the time of the late unnatural rebellion from vexatious suits and prosecutions. Whereas in the year of our Lord 1715 as well as in the time of, as before the unnatural rebellion, which begun in or about the months of September or October in the same year. And whereas divers Lord Lieutenants, Deputy Lieutenants, Justices of the Peace, Mayors, Bailiffs of Corporations, Constables and other officers and persons well affiected to His Majesty and his Government in order to preserve our present happy establishment and the peace of this Kingdom and to suppress and to put an end to the said rebellion apprehended and put into custody and imprisoned several criminals and several persons who they suspected might disturb the public peace or foment or promote riots, tumults, rebellions or evil designs against the Government; and also seized and used several horses, arms and other things and also pressed drivers, horses, carts and carriages for the services of the pubic; and did for the purposes aforesaid enter into the houses and possessions of several persons and did quarter and cause to be quartered divers solders and others in the houses of divers persons; and did divers acts which could not be justified by the strict forms of law *and yet were necessary and so much for the service of the public that they ought to be justified* by Act of Parliament and the persons by whom they were transacted ought to be indemnified.

'Be it therefore enacted,' etc.

"Now my Lord, your Lordship will see and the Council will see that the essential point of this enactment is that there

was a rebellion which had to be suppressed and put an end to. Secondly, that Parliament expresses itself satisfied that the acts which had been done and which could not be justified by the strict forms of law were yet necessary and that they ought to be justified by an Act of Parliament, and that the persons who committed them ought to be indemnified. That establishes the cardinal principle which underlies legislation of the character which is now before the Council. It is a principle which was re-enacted in 1745. There was a second Pretender, the late Pretender's son, Charles Edward. He tried to invade England—that was in 1745. This time again 6,000 Highlanders joined his forces and later on the number rose to 9,000. There were regular pitched battles fought. Several members of the Scottish peerage and others joined the rebellion. There was regular war and the King's loyal subjects fought against the enemies of the King and defeated them. That was in 1745. It was necessary after the rebellion had been suppressed to introduce an Act of Indemnity. This Act, Chapter 20 of George II, ran as follows:—

'An Act to indemnify persons who have acted in defence of His Majesty's person and Government and for the preservation of the public peace during the time of the late unnatural rebellion and sheriffs and others who have suffered escapes occasioned thereby from vexatious suits and prosecutions.

'Whereas during the unnatural rebellion which begun in or about the months of July or August in 1745 and still continues, divers Lieutenants, deputy lieutenants, justices of the peace, mayors, bailiffs of corporations, constables, and other officers and persons well affected to His Majesty and his Government in order to preserve our present happy establishment and the peace of this Kingdom and to suppress and to put an end to the said rebellion apprehended and put in custody and imprisoned or caused to be apprehended, put into custody and imprisoned several criminals and several persons who they suspected might disturb the public peace or foment or promote riots, tumults rebellions or evil designs against the Government and also seized and used several horses, arms and other things and also pressed divers horses, carts and carriages for the services of the public and did for the purposes aforesaid enter into the houses and possessions of several persons and did quarter and cause to be quartered divers soldiers and others in the houses of divers persons and did divers acts which could not be justified by the strict forms of law *and yet were necessary and so much for the service of the publick* that they ought to be justified by Act

of Parliament and the persons by whom they were transacted ought to be indemnified.

'And whereas divers sheriffs gaolars and other persons may be or are in danger of being sued, indicted prosecuted or proceeded against by reason of escapes of prisoners let out or discharged by the persons engaged in the said rebellion.

'Be it therefore enacted.'

"Here again the Council will note that the essential point in the preamble is that it was necessary to suppress and put an end to the rebellion and Parliament was satisfied that acts had been performed that were not strictly according to law acts which were not only necessary but it was necessary that the servants of the public ought to be justified by an Act of Parliament. Now, my Lord, the third time that the English Parliament passed an Indemnity Act was in 1780; that was in connection with the Lord George Gordon riots. This was not a rebellion against the King by enemies of Great Britain, but this time the Catholic Relief Bill having been passed a certain section of Protestants in England could not bear the idea that it should be on the Statute-book, and they constituted a strong party and presented a petition to Parliament signed by 120,000 persons asking for the repeal of the Act. They went and invaded the Houses of Parliament. Sixty thousand persons were there, and the riot had to be suppressed. After the riot had been suppressed, Lord George Gordon escaped, but others got the punishment which the law considered fit for them, but after the riots had been suppressed an Act of Indemnity was passed, That was is the year 1780. The Act ran as follows:—

'Chap. LXIII, Geo. III. An Act to indemnify such persons as have acted in the suppression of the late Riots and Tumults in and about the Cities of London and Westminister, and Borough of Southwark and for the Preservation of the public peace.'

"Now the preamble recited:—

'Whereas on the second day of June, in the year one thousand seven hundred and eighty a great number of disorderly persons assembled themselves together, in a riotous and tumultuous manner, near to both Houses of Parliament, and possessed themselves of the Avenues leading to the same, the said House being then sitting, and there committed great Acts of Outrage and Violence to many of His Majesty's subjects; and afterwards proceeded to attack the Houses of some of the Public Ministers, of Foreign

Princes and States, residing at His Majesty's Court, and to break into the Chapels belonging to such Public Ministers, and to set Fire thereto, and continued riotously and tumultuously assembled for several Days and Nights; and during that Time attacked and set Fire to the Goal of Newgate, the King's Bench Prison, the Prison of the Fleet, and set at liberty the prisoners therein respectively confined, and broke other Gaols and Prisons, and set at liberty the prisoners confined therein, and set fire to, and pulled down, the Dwelling houses of His Majesty's peaceable subjects, in several Parts in and about the Cities of London and Westminster, and Borough of Southwark, and burnt and consumed the Materials and Furniture of the same, and did other Acts of Outrage and Violence; and whereas divers Magistrates and others have exerted themselves for the suppression of the said riots and Tumults, and for putting an End to the said Outrages, and for restoring and preserving the Public Peace, and on the Occasions, and for the Purposes aforesaid, have done divers Acts which cannot be justified by the strict Forms of Law, and yet, were necessary, and so much for the Preservation of the Lives and Properties of His Majesty's Subjects, and the Public Safety and peace, that they ought to be justified by Act of Parliament, and the Persons by whom they were transacted ought to be indemnified; be it therefore enacted . . . . .'

"Now, my Lord, these enactments clearly lay down that the legislative body which is to give its sanction to the acts which were performed during a time of trouble were necessary for the suppression of a rebellion or riot which amounted to rebellion and that they were so very necessary that the legislative body ought to justify them and indemnify those who had taken part in them. It is not every ordinary riot which would come in the category of the riots mentioned there. It must be a riot which, as Lord Halsbury points out in his article on the Laws of England, must be a riot or rebellion amounting to war. This is what he says in Volume VI of the Laws of England:—

'As the source and fountain of justice, the Crown may issue such Commissions to administer the law as are warranted by the common or statute law. But it may not, without authority, establish Courts to administer any but the common law, and it may not, it is said, grant the right to hold a court of equity. The Crown may not issue Commissions in time of peace to try civilians by martial law; but when a state of actual war, or of insurrection, riot or rebellion amounting to war exists, the Crown and its officers may use the amount of force necessary in the circumstances to restore order, and this use of force is sometimes termed

martial law. When once this state of actual war exists, the Civil Courts have no authority to call in question the actions of the military authorities, but the powers of the military authorities cease and those of the Civil Courts are resumed *ipso facto* with the termination of the disorder.'

"My Lord, the point on which I wish to lay stress is that there must be either a rebellion or insurrection or a riot amounting to war to justify resort to martial law. These are the general principles which the laws of England have laid down. So far as India is concerned, the matter rests on a more definite footing. The Government of India had empowered under Regulation X of 1804 to establish martial law in certain circumstances. Now it is essential to draw attention to the language of that Regulation, because your Lordship professedly acted under that Regulation in declaring martial law in the Punjab. My Lord, that Regulation was passed in 1810, and it ought to be remembered that it was passed at a time when the British Government was trying to establish its power in this country, when there were many small States trying to prevent its establishment or power in this country. That was the period during which this Regulation was passed. Little did I think, my Lord, I venture to say, that the authors of this Regulation had imagined that this Regulation would be resorted to in the Year of Grace 1919 after the great war had been won. However, the Regulation is as follows:—

'WHEREAS during wars in which British Government has been engaged against certain of the native powers of India certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same and have abetted and aided the enemy and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government; and whereas it may be expedient that during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government in any part of the British territories subject to the Government of the presidency of Fort William, the Governor General in Council shall declare and establish Martial Law within any part of the territories aforesaid for the safety of the British possessions, and for the security of the lives and property of the inhabitants thereof by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government or the actual commission of any overt act of rebellion against the authority of the same or in the act of openly

aiding or abetting the enemies of the British Government within any part of the territories specified above, the following Regulation has been enacted by the Governor General in Council to be in force throughout the British territories immediately subject to the Government of the presidency of Fort William from the date of its proclamation."

"Now, my Lord, it is clear that this Regulation can only be justly put into force when there is either a war or open rebellion against the authority of the Government. Your Lordship in establishing martial law by the notification, dated Simla, the 14th April, 1919, consequently said that:—

'Whereas the Governor General is satisfied that a state of open rebellion against the Government exist in certain parts of the province of the Punjab; now, therefore, in exercise of the power conferred on him he is pleased to make and promulgate the following Ordinance.'

"Now, my Lord, section 2 of the Bengal State Regulation provided that where the Governor General was so satisfied it was open to him to establish martial law, and that section also repeated that it was during the existence of open rebellion against the authority of the Government, or who may have borne arms in open hostility to Government that martial law should be established. In the notification dated the 14th April, 1919, your Lordship was satisfied that a state of open rebellion against the authority of the Government existed in certain parts of the province of the Punjab. Now, my Lord, the public have not been told what were the circumstances which constituted a state of open rebellion in Lahore. I gave notice of certain questions and I wanted to find out what it was that constituted a state of open rebellion. But unfortunately the Government told me that the questions could not be answered in view of the fact that an inquiry had been ordered and that it would not be in the interests of the public that these questions should be answered. Now, my Lord, I submit that it was essential, and it is still essential, first to inform the Council, when the Executive Government have come to the Legislative Council to ask for their support to ratify acts which are done under an Ordinance promulgated by the Governor General or the Governor General in Council, what were the circumstances under which martial law was proclaimed. I asked whether the Government would be pleased to lay on the table the correspondence which passed between the mand the Punjab Government leading to the

declaration of martial law in the Punjab. I also asked whether the Government would be pleased to state the facts and circumstances which, in its opinion, constituted a state of open rebellion against the authority of the Government in certain parts of the Province of the Punjab within the meaning of Regulation X of 1804 between the date on which the Ordinance was promulgated by the Governor General and the date on which open rebellion was declared to exist in the part of the Punjab to which the Ordinance had been applied. I am sure your Excellency will recognise that these questions sought to do nothing except what was right in the circumstances. I had heard that the 'Pioneer' had proclaimed that an Indemnifying Bill was woing to be introduced in this Council, and I gave notice of a question an answer to which it would be necessary to have in order that I should be able . . . . . .

THE HON'BLE SIR WILLIAM VINCENT:—"My Lord, may I rise to a poin tof order? Is it in accordance with the practice in this Council for an Hon'ble Member to refer in public to a question which has been disallowed? Is it not a fact that the Hon'ble Member has been reprimanded for doing this on a previous occasion?"

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I do not know of a reprimand and I do not recognise any such reprimand. I am entitled on a Bill before the Council to draw attention to every fact in the Council. I was perfectly right, I submit, to do what I did.

"Now, my Lord, I asked for information, and, as I said before, in answer to my question I was informed that the Government could not answer these questions and numerous other questions of which I had given notice, as a Committee of Inquiry had been constituted or was going to be constituted and these matters would be dealt with by it. Now, my Lord, I would not complain of these questions not being answered if the Government also recognised the fairness, the wisdom of staying its hand until these facts had been placed before the Committee of Inquiry, and until the public had come to know of them. Your Lordship will kindly remember that since this unfortunate declaration of open rebellion in the Punjab, which among other evils contributed to the Afghan war, since the declaration of this open rebellion and the establishment of martial law in the Punjab, the Punjab Government shut

the rest of India and the world out from all knowledge of the events which were happening in the Punjab. My Lord, not only were individuals not permitted to go in and expose the events that were taking place there to the light of day, but even the representatives of many respectable well-established leading papers in the country, and a man, himself a man of peace and of humanity, Mr. C. F. Andrews, when he asked permission—I hear a little laughter. My Lord, I do not know what the laughter is about. If it is to say that Mr. Andrews is not a man of peace and humanity, I am sorry for those who think so. Now, my Lord, I say a man of Mr. Hume's antecedents and character, devoted to the service of his fellow men, who goes to different parts of the world in order to serve his fellow men, who was appointed as the representative of several leading papers, who sought permission to go to the Punjab, even after he had paid a visit to Simla and was on his way to Lahore, was stopped at Amritsar and disgracefully dealt with and turned back from the Punjab. Now, my Lord, other papers were not allowed to send their representatives to the Province and other public men were not allowed to go there. The result was that we did not know what had happened. From the infrmation that we had, the All-India Congress Committee met and sent a long cablegram to His Majesty's Secretary of State in which they drew attention to the seriousness of the situation.

"Now, my Lord, in that cablegram the All-India Congress Committee, which met on the 20th and 21st of April at Bombay, passed among others the following resolutions:—

'Resolved that the All-India Congress Committee deplores and condemns all acts of violence against person and property, which were recently committed at Amritsar, Ahmedabad, Viramgaum and other places and appeals to the people to maintain law and order and to help in the restoration of public tranquility; and it urges upon the Government to deal with the situation in a sympathetic and conciliatory manner immediately reversing the present policy of repression.

'Resolved that the All-India Congress Committee places on record its strong condemnation of orders passed under the Defence of India Act by the Government of the Punjab, Administrator of Delhi and by the Government of India against a person of such well known noble character and antecedents as Mr. M. K. Gandhi. The Committee cannot help feeling that, if these orders had not been passed, some of the regrettable events which followed them, may not have happened. The Committee requests

the Government of India to withdraw its own order and to ask the Local Governments in question to do the same.'

"Then, my Lord, there was a cablegram which I sent to His Majesty's Premier and to the Secretary of State for India. I will read it as it stands without articles, etc.

'All India Congress Committee desire most earnestly to represent to His Majesty's Government intense gravity of present situation in India, real causes and need for change of policy pursued at present. While deploring and condemning popular excesses which have occurred in some parts of country and which popular leaders have every where used their influence not unsuccessfully to restrain, Committee urge impartial consideration of circumstances which have so aggravated and embittered feelings of people throughout country as to make such outbreaks possible. Resolution of Government of India, dated 14th instant, describing present situation as arising out of Rowlatt Act agitation makes only partial statement of case. Undoubtedly intense universal bitterness of opposition to Rowlatt Act forced through legislature by official votes against unanimous protest of all non official Indian members and in face of unparalleled opposition throughout country was immediate cause of recent popular peaceful demonstrations but subsequent excesses were provoked by needless and unjustifiable action of Government of India, and Punjab and Delhi Governments against so revered a personality as that of Mr. Gandhi and against other popular leaders. For complete understanding, however, of present discontent and its causes other important factors must be considered.'

"Then, my Lord, after dealing with the causes which included India's services during the war, and the attitude of European and Anglo-Indian officials towards the Reforms and the fate of Turkey and the Rowlat Bills, the Committee went on to say:—

'In such circumstances the two Rowlatt Bills were introduced and the principal one forced through Council in spite of unanimous opposition of non-official Indian Members, appeal for postponements and reconsideration and warnings of agitation that would inevitably follow throughout country which was stirred by this measure and uncompromising attitude of Government in degree unparalleled in history of country. Committee here cannot enter in detail as to justifiable apprehensions caused by passing into law of this Act.

'They are content to represent that it is total distortion of facts that an agitation against a measure placed on Statute-book in time of peace depriving subjects under any circumstances of sacred right of free and open trial and otherwise restricting fundamental liberties and depriving accused persons of normal and essential safeguards designed for protection

of innocent persons should be regarded as an unreal agitation engineered by political agitators for their own ends. Committee have no authority to discuss merits of passive resistance movement led by Mr. Gandhi but would emphasise that nothing but feeling of high-souled patriotism and intense realisation of injustice involved in passing of this measure could have actuated a man of his saintly character and noble record Committee submit that so far as facts are publicly known no violence had anywhere been committed by the people until after the arbitrary restrictions placed on Gandhi's movements leading to his arrest and forcible deportation without any announcement about his destination while he was on his way to Delhi with object of pacifying people after unfortunate episode there on March 30th. Grave allegations were made that authorities in Delhi unjustifiably fired on crowds killing and wounding several. Government of India have ignored demands for inquiry into this and have published *exparte* statement of Local Government exonerating local authorities on unconvincing statements. Had Gandhi been allowed to proceed Delhi Committee believe he would have restored normal conditions. Government on contrary by his arrest and deportation provoked outbreaks in Ahmedabad and Viramgaun. Outbreak had become imminent in Bombay also, but it was averted by wise action of authorities in restraining police and Military and efforts of Gandhi and other leaders pacified people and restored quiet.

'Committee invite attention to the contrast between the rapidity with which tranquillity was restored in Ahmedabad by presence of Gandhi, his co-operation along with that of other leaders with authorities and continuance of disorders in Punjab where reckless and horrible methods of repression under Martial Law such as public flogging of citizens in streets dropping of bombs from aeroplanes, wholesale firing on people assembled in streets, have been resorted to. These methods of repression have created horror and resentment throughout country.

'Committee recognise need for strong measures to deal with popular violence where occurring and popular leaders and bodies and all public men are ready to co-operate with Government in putting down popular excesses and violent movements against authority, but use of such methods as have been in force in Punjab antagonise feeling of people towards Government and sow seeds of bitterness and distrust.

'Committee most earnestly urge His Majesty's Government to intervene and put an end to these methods, and to order the appointment of commission of officials and non-officials to investigate cause of discontent and allegations of excesses by authorities in repressing popular outbreaks.'

"My Lord, that was submitted on the 28th of April this year and it prayed that the Government should appoint an early Commission.

'Committee strongly urge His Majesty's Government to consider that

popular discontent has been provoked by causes set forth above. At Amritsar disturbances followed immediately on Sir Michael O'Dwyer's action in arresting and deporting Dr. Kitchlew and Dr. Satyapal. Committee most earnestly represent that situation cannot be dealt with alone by repression and attitude of sternness towards people displayed in Resolution of Indian Government of 14th instant which gives free hand to Local Government to employ every weapon in armoury of repression and is sadly lacking in spirit of conciliation. Situation calls for highest statesmanship which will deal with it in spirit which animated British Government and Indian people in their recent struggle for maintenance of liberty and freedom of peoples from despotic domination and not in a mood of ruthless repression.

'All-India Congress Committee feel that they can appeal with confidence to His Majesty's Ministers to consider this representation with sympathy and to take definite steps forthwith to reverse the policy of repression and to satisfy Indian feeling with regard to the Muhammadan question, the reforms and repeal of Rowlatt Act. Committee respectfully submit this action alone will secure real peace and contentment in the land.'

[At this stage the Council adjourned for Lunch.]

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, the point to which I was drawing attention when the Council rose was whether there was open rebellion in Amritsar and Lahore and certain parts of the Punjab when this notification was published. Because, my Lord, the Bill starts with saying, it assumes, that there was open rebellion and all the acts which took place subsequent to the declaration that there was a state of open rebellion are based upon and flow from it, so to say. Now, my Lord, I have drawn attention to the general situation which existed in the Punjab and the country at about the time when this declaration was made. I have drawn attention to it in order that a birdseye view may be presented of the situation as a whole, and I have shown that the All-India Congress Committee drew the attention of Government to the fact that the disorders which had taken place had their origin not in anything in the attitude of the people so much as in the attitude of the authorities who had to deal with the people. Now, my Lord, I want to enter somewhat in detail into the circumstances which existed then. I consider it essential to do so in order that this cardinal fact, this key-stone of this whole unfortunate edifice, which constituted the establishment of martial law and its results, should be fairly and squarely fixed at its proper place.

"Now, what happened was, my Lord, that in the last Session of this Council the Rowlatt Bill was introduced. That Bill was opposed practically unanimously by all the Indian Members, and Government was urged to postpone legislation until another Session. The Government did not see fit to yield to that request. Agitation followed in the country and that agitation took one particular shape by the suggestion of Mr. Gandhi. That shape was that the people should express their dissatisfaction with the carrying out of the Rowlatt Act against the wishes of the people by observing a day of humiliation and prayer. My Lord, it is a pity that this action of Mr. Gandhi was not appreciated by all the Local Governments equally well; there were some, I am thankful to say, which appreciated it at its proper estimate and allowed the people to express their injured feelings in the way Mr. Gandhi had suggested. As a result of that suggestion on the 30th March last, a *hartal* was observed, that is, a general closing of the shops was observed at certain places and also at Delhi. At Delhi somewhat unfortunate events took place. Some people tried to put pressure upon some confectioners at the railway station to persuade them to close their business that day, and a crowd assembled, and what took place there led to firing. I do not want to go into greater detail in regard to this matter, but I want to indicate the general fact that the mob was there and as a consequence of what happened, the firing that took place, people's minds were more embittered. That was the first blunder committed. Then, my Lord, a second time firing took place at Delhi and that also gave cause for more resentment. But notwithstanding this unfortunate firing and the loss of life, and the wounds which it inflicted upon some of the people, it is a fact, which cannot be gainsaid, that the 6th April, 1919, which was the great *Satyagraha* day throughout the whole country, was observed throughout the country peacefully. No untoward incident has yet been alleged to have occurred during the observance of that *Satyagraha* day. Now, what, my Lord, was the *Satayagraha* day? Hindus and Mussalmans, and Indian Christians, and generally the whole Indian community agreed unanimously to abstain from doing any business that day, closed all their business shops, undergoing a great deal of loss in order to show the general resentment of the Indian community at the attitude

of Government, and as a step which might persuade the Government to reconsider their position. Now, my Lord, that passed off well, as I say, and Local Governments other than the Punjab Government did not find in the demonstrations that took place any occasion for embarking upon a policy of repression. But not so the Government of the Punjab as it was then constituted. On the 3rd and 5th April, the Government of the Punjab issued orders against Dr. Satyapal and Dr. Kitchlew forbidding them from making speeches in public. These two gentlemen submitted to that order and nothing untoward happened in Amritsar in consequence thereof. The 6th of April was observed as a *Satyagraha* day in Amritsar, as well as in other places, and the day passed off peacefully there too. Three days after, there was the *Ram Navami* procession in Amritsar, that is the day on which Rama's birth is celebrated. It is a great day with the Hindus, but this time Muhammadans and Hindus united with each other in celebrating that day. That is to say, Muhammadans came forward to express their full fellow-feeling with the Hindus in observing that day, and there were great processions in Amritsar, and the Deputy Commisioner of Amritsar witnessed these processions from the Allahabad Bank, where he was, I am told, sitting at the time. My Lord, there is absolutely nothing against the Government in that procession. I am told that while the people shouted out 'Hindu Musalman-ki-jai' and 'Mahatma Gandhi-ki-jai' they also shouted out 'King-Emperor-ki-jai'; it was a perfectly loyal demonstration and had absolutely nothing to do with any political feeling.

"But there was one feeling which is very important and which has its political value, and that was that Hindus and Muhammadans acted towards each other in a friendly way in which they had never done before in the history of Amritsar. Ordinary observances and caste restrictions and rules were put aside and their fraternising was a matter upon which every reasonable man, every God-loving man and man-loving man ought to rejoice. But on the following day at about 10-30 A.M. these two gentlemen, Dr. Satyapal and Dr. Kitchlew, were ordered to be deported from Amritsar. Nothing had happened up to the moment of their deportation which the public is aware of which would justify that order. They had been

told to abstain from speaking in public; they had submitted to that order; nothing untoward had happened, there was no agitation which might endanger the public peace in Amritsar; and yet the Punjab Government thought it fit to issue this order of deportation against two men who were at the moment idolised by the people because they were honest and honourable men and the people felt that the orders were unjust orders.

"Now, my Lord, that was the second blunder committed in Amritsar. And what was the attitude that was behind that blunder? While other Local Governments noted the fact that public feeling was incensed against the attitude of the Government in the matter of the Rowlatt Bill, they thought it fit to allow that feeling to have its free and full expression.

"The Lieutenant-Governor of the Punjab, on the other hand, thought he must teach a lesson to those who were agitating. In a speech delivered from his seat in the Legislative Council he threatened action and also expressed his dissatisfaction. He said he would take very severe action and that threat he carried out unfortunately in the order of deportation. What happened? Before news of deportation was received business was going on as usual at Amritsar, banks were open, other public offices were open, in fact business men were transacting business as usual. When the news arrived there was a general feeling of resentment and sorrow. Shops were closed in a short time. At that time Mr. John, the Municipal Engineer, cycled through the city. He found people doing their business as usual, there was nothing to give any indication that trouble was coming, and when he passed through the crowds no one noticed him. He found crowds passing the National Bank, and the Chartered Bank, as also the Town hall and other public buildings. The crowd went in the direction of the Deputy Commissioner's bungalow, as has been stated in the evidence of officials as well as non-officials, their object was to go to the Deputy Commissioner and to request that these men, Doctors Satya Pal and Kitchlew, should be released. Up to then the mob showed no signs of mischief; they passed several public buildings without any thought of injuring them. When they reached the Amritsar footbridge they found that a military picket barred their proceeding further in the direction of the civil station. Now,

at that place the mob was fired upon; they were at that time unarmed; I am told that they did not even have a stick in their hands; I am told that there was no attitude of defiance or violence, and at that time it is possible that the mob might have been gently pressed back, gently and firmly pressed back. It was then that firing was resorted to, and as a consequence the people became incensed, and that some persons then died and some were wounded. News was taken to the city; this fostered the resentment of the people. Firing was resorted to a second time near this bridge and more persons were killed. The Deputy Commissioner, in his own statement, says that before firing took place the mob did not commit any excesses. I have evidence to show that violence was done before the shops were fired. Now, my Lord, Mr. Miles Irving, th eDeputy Commissioner, says that the worst that he expected from the deputation was a disorderly demonstration at his house. It is alleged on the side of the people that if this firing had not been resorted to, and if more restraint had been exercised, all the evils that followed might not have taken place. My Lord, what happened was deplorable. Infuriated by having some of the mob killed or wounded, a portion of the mob went back to the city saying 'they have killed some of our men, let us fight them.' Up to that tim ethe evidence proves that no harm was done, the mob then rushed back to where fuel is stacked, I have myself seen the stack of wood, they picked up pieces of wood near the railings and then lost their temper, returned and committed the foul murders that they did. I submit that these are the circumstances which we should bear in mind in considering what happened. I need not of course express my sorrow for the lives lost; every decent man must regret the fact tha tMr. Stuart and Mr. Robinson and that other Europeans at the railway station were killed. The whole unfortunate affair was finished in the course of two hours. The report in the 'Civil and Military Gazette' says that at 5-30 P.M. all was quiet. I shall not go into the question whether the firing was justified or not, but I would draw attention to the fact that the first firing having taken place, and the mob having become infuriated, it went into the city to revenge itself by taking the lives of five European fellow-brethren. In a couple of hours all was quiet at Amritsar. There was no trouble on the 11th. The people

brought back the corpses, the Hindus and the Moslems decided that they should accompany the corpses in honour of the men and buried or burnt them according to §their religion. They finished the whole job before 9 or 10. Thousands of people came out to accompany the bier of the unfortunate men who had been killed, and yet not a single untoward incident occurred in Amritsar. After having buried or burnt the corpses the people came back to the city and all was quiet. On the 12th again all was quiet at Amritsar. On the 13th the Seditions Meetings Act was proclaimed in Amritsar. Up to that time all was quiet.' I should like any Member on behalf of the Government to cite one single fact or circumstance which would show that after 5-30 on the 10th April, when these unfortunate deaths took place, at the railway station and banks, that there was a single incident at Amritsar which could by any stretch of imagination be construed into open rebellion. My Lord, what happened on the 13th? It is distressing to think of. On the evening of the 12th a certain number of persons tried to have a meeting held in a certain place in the city, very few people attended, but it was announced at the meeting that a meeting would be held on the following day at Jallianwala Bagh. This is a place which is surrounded on all sides by houses, there are three or four exits to it, the biggest exit is on one side and the smaller exits are not larger than the doors of this hall. I am told that between 16,000 and 20,000 persons assembled there. It was given out that Lala Kanhaya Lal, a very old and esteemed pleader of Amritsar, would preside. Lala Kanhaya Lal told me personally that he never was approached and that he never gave his consent to preside, that this was falsely given out.

"That was a ruse to draw the people to the meeting. Hearing that a man of his position and respectability was going to preside, many people came to attend the meeting. That day also happened to be, my Lord, the *Bysakhi* day.

"The *Bysakhi* day is one of the most important days in Amritsar, and on that day one of the biggest *melas* is held there. People come to Amritsar for the *mela* from long distances, not only from the interior parts of Amritsar, but from long distances, from Rawal Pindi and Peshwar. A number of Sikhs and Jats had come to Amritsar for the *Bysakhi* day. These people not knowing that meetings had been prohibited

assembled in the Jallianwala Bagh in large numbers, I am told they numbered about 20,000. The 'Civil and Military Gazette' states in its report that the people numbered about 6,000. But whatever the number may be, the gathering was certainly a very large one. My Lord, when the meeting had assembled, when several thousands of people had assembled, an aeroplane passed over the place where the meeting was to be held, and within half an hour or so of this, came the troops, and while the people were sitting down to hear the lecture which was being delivered by one of the men, the troops came and fired upon the people—and the people say without giving them any warning or any time to run away from the meeting. Now, my Lord, it has been stated by the Hon'ble the Home Member, that 'the number of persons who had been killed there has been traced to 300.' But from a letter received this morning by me from a friend, I am informed, that the number of deaths which have been traced already amounts to 530 killed and 190 wounded, and among the 530 killed, he gives me the names of 42 boys whose ages range as follows:—1 from 7 months who was being carried by his father to the place, to 15, 17, 18, 14 and one of 4 years, more than one of 12 years, several of 14 years and several of 15 years. These are the names of the boys who were killed at this meeting. The names of many others might be forthcoming, but even if this list is final as I very much wish and hope it may be, even, my Lord, the number is appalling to think of, and it is also horrible to think of the fact that people assembled at a meeting sitting down to hear a lecture should be fired upon by His Majesty's troops, and when they were running for their lives they should still be fired upon, and that so many of them should be killed in a few minutes time. Now, my Lord, I should like the Hon'ble the Home Member with all his reading of history to cite one instance so horrible to think of as the one like the Jallianwala Bagh, and to tell me if any Government has attempted to pass an Indemnifying Bill to justify anything approaching the deeds that were perpetrated in the Jallianwala Bagh.

"My Lord, I will go back to Lahore for a moment. I will come back afterwards to the events that followed at Amritsar. But let me say here that even after this butchery in the Jallianwala Bagh—and the Bagh is now called the

bloody Bagh—even after this the people did not show the smallest sign of committing any violence. They submitted to these atrocities, they calmly resigned themselves to it, and there is not one single incident mentioned which would justify anybody to describe the state of things in Amritsar, even after that event and before it was proclaimed, that there was a rebellion in Amritsar, as an act of violence or hostility to Government. This was my Lord, on the 13th of April. On the same day by a notification, to which I have already referred, it was declared that a state of open rebellion against the authority of the Government exist in certain parts of the Punjab, and by an Ordinance this was extended to Lahore and Amritsar, which were the first which came in for the operation of this declaration. Now, I submit, my Lord, with great respect, there is nothing I know of, and I have taken pains to verify the facts, to justify the declaration that there was a state of open rebellion in Amritsar on the day that your Lordship was advised that there was rebellion. I will go back to Lahore. Lahore observed the 6th of April as a *Satyagraha* day. The day passed off peacefully. Up to the 10th no untoward event happened in Lahore either. On the 10 th owing to the news of Dr. Satyapal and Dr. Kitchlew having been deported, there was all this trouble in Amritsar. The same day news was received in Lahore that Mr. Gandhi had been arrested, and deported to a place unknown, I mean to say, the place where he was deported was not announced. Now, my Lord, Mr. Gandhi, as is probably known, not only to my Indian friends but to every gentleman in this country or at least ought to be known, is a gentleman who is held in the highest reverence by millions of people. By his saintly character, by his desire not to hurt any fellow-man, by his desire to stand up for truth, justice and humanity, he has established himself in the affections and reverence of the people to an extent which is not enjoyed by any other of my fellow-countrymen. Mr. Gandhi having been responsible for the *Satyagraha* day being observed, he had to issue instructions that the day should be observed without any violence, without causing any hurt to any fellow-men; but certain unhappy events to which I have already referred having taken place at Delhi, public sentiment having been roused by these events, Mr. Gandhi was coming to Delhi to quiet the people

and to see that feeling should not be further embittered. While he was on his way to Delhi, the Government of India was advised to issue an order confining him to Bombay, and the Government of the Punjab and the Delhi administration issued orders prohibiting him from entering the Punjab and Delhi. My Lord, that was a gratuitous insult offered to Mr. Gandhi. Any Government ought to feel honoured by the presence of a man like Mr. Gandhi within its own jurisdiction, and in asking Mr. Gandhi to keep out from the Punjab and the Delhi province, the administrations of those places showed that they did not take the broadminded view which those at the head of administrations are expected to take in such matter. Well, the result was that as the news was received that Mr. Gandhi had been arrested and deported, the temper of the people was tried. At Lahore, a mob gathered and they were going towards the Government House towards the Upper Mall, in order, I am told, to go up to Government House to make a representation. They passed several European buildings; they passed several European gentlemen without showing the smallest sign of any desire to hurt anybody. The Europeans who have their shops on the Upper Mall did not find any of their shops injured, not even a pane injured. When they were on the Upper Mall at one place the police wanted to prohibit them from going any further and wanted to turn them back. They did not like to be turned back, but eventually they agreed and they did turn back, and their attitude in going back shows that if firing had not been resorted to, there would have been no evil consequence resulting from the presence of the mob at that place for a little while. A little gentle persuasion, a little firmer attitude, if need be, would have succeeded, that is the belief of a lot of people. Now, my Lord, that having happened, when the mob were going back near Anarkali, they were fired upon and certain persons lost their lives. This enraged public feeling, but what happened? I ask your Lordship to note that there is no people on earth that I know of, that I have read of, or heard of, who would have shown their law-abiding character better than did the people of Lahore and Delhi where the firing had been resorted to. They did not do anything, they went back to their homes. It was all quiet at 8 o'clock Before the people had returned to their homes, Government

House had been seized by panic. Messages were sent to the troops to be in readiness and to take up positions. Ladies in the Club and other places were told to hurry back home. Several of them did, but at 8 o'clock all was quiet, and those ladies who had gone to Government House were permitted to go back to their homes. The people did not do anything to justify the panic. The whole thing was over in a short time. Whether the firing was justified or not, leaving that question apart, the whole thing was over within an hour and a half or two hours, and there was quiet in the city, and that same day the Lieutenant-Governor was entertained at a party. That was on the 10th. What happened on the 11th? The people here again asked that they should be allowed to carry their dead in procession, and they performed the ceremonies that they had to, but nothing further happened. On the 12th there was a meeting at the Badshahi Mosque. The people had assembled there to express their regret at what had happened, the shops continued to be closed, but no harm was being done to anybody except the poor men, who were suffering for want of food, and Lala Harkishen Lal, to his honour it may be mentioned, said he would subscribe Rs. 1,000 to help to keep the people from starvation. At that meeting there was a Criminal Investigation Department man who went into the meeting and expressed sentiments which people resented. This man was roughly treated, his pugree was thrown aside, but afterwards the meeting passed off quietly; nothing more happened. When the people were going back they say they passed the troops and they say there was something which led the troops to fire. Again some of the people were injured, some killed. Now, my Lord, what happened afterwards? Even after this unfortunate incident the people kept quiet. There was nothing, not a flower-pot injured in Lahore, not a pane of glass broken by the people—I did not hear what the Hon'ble the Law Member said . . . . . .

THE HON'BLE SIR GEORGE LOWNDES:—"The Hon'ble Member was not intended to hear."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"The noise was so great I thought something was said for me."

THE PRESIDENT:—"I am sure the Hon'ble the Law Member would have got up in his place if he had wished to put any question; that is the usual course."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"Now, my Lord, what are the incidents which the Hon'ble the Home Member, or anybody supporting the Bill, would expect as happening between the evening of the 10th and midnight on the 15th which would justify a declaration that there was a state of open rebellion in Lahore The Law Member has not uttered one word to justify that view. Now I submit that there was nothing; that the people were living quiety; that whatever action had been taken by the Government in the shape of placing the military and police in positions and everything else was done and there was quiet in Lahore. Whether the quiet was due to the action taken by Government or whether it was due to the innate good sense of the people is a matter which I will not go into. Any way the result was there. There was quiet in Lahore, and all the panic which resulted in ladies being frightened into leaving Lahore and being sent up to the hills seems to be utterly unjustifiable. My Lord, up to the 15th then if this was the state of Lahore and Amritsar, how is this Council being asked to assume that there was a state of open rebellion in those places? Why should this sweeping Indemnifying Bill be put before this Council and the Council asked to support it? Let me refer to a few other incidents that happened in the Punjab. It is said that this open rebellion was to be found in other places in a few days. But, my Lord, note the sequence of events. This was up to the 10th of March. I have shown that on the 10th of March what happened at Amritsar was due to the deportation of Dr. Satyapal and Dr. Kitchlew, and after the 10th to the news of the arrest and deportation of Mr. Gandhi and possibly also, though I cannot say, my Lord, to the receipt of the news of what had happened at Amritsar. Now beyond that we have nothing to show that there was a state of rebellion in those places. And what is the next place to which I should invite attention? It is Gujranwalla. Gujranwalla kept quiet. Up to the 13th we did not hear of any untoward incident there. They had held a meeting; they had discussed the *Satyagraha* day; they had shown their opposition to the Rowlatt Act,

but nothing further had happened. It was on the 14th, when the news of the Jallianwala Bagh massacre reached Gujranwalla that the people committed some excesses. But let me tell you what they did. 'There was a complete and spontaneous *hartal* in the whole town; everything went off orderly and everything was perfectly quiet in the town' as the judgment in the Pleader's case shows. Then, my Lord, on the 13th as the news of the arrest of Mr. Gandhi had reached the town and the citizens were thinking of observing a *hartal* on the 14th, the matter of holding a meeting in case of the proposed *hartal* was considered at an informal meeting at the house of Diwan Mangal Sen. Please note, my Lord, what happened. Diwan Mangal Sen, one of the most esteemed men in Gujranwalla, who had made his contributions to His Majesty's Government during the war, and considerable contributions too, along with many other respectable men, were hauled up and tried as persons who had waged war against the King. On the 12th when they met to consider the matter, after having decided what they would do, they informed the authorities that the people had decided to close business on the 14th. Mirza Sultan Ahmed, the acting Deputy Commissioner, issued instructions to the Municipal Commissioners asking them to see that everything remained quiet on the 14th. They did not do so in a surreptitious way.

"They did all in a fair, frank and open manner and there was nothing wrong which they had to conceal. The proceedings of the meeting of the Municipal Commissioners and the conversations which took place with the Deputy Commissioner are, I understand, on the record.

"Now the morning of the 14th of April opened well. All was quiet. There was complete spontaneous *hartal* throughout the city on this day. A big *Bysakhi* day was held at Wazirabad which is visited by numerous people from Gujranwala. Hence there was a tremendous rush for Wazirabad in the 7-30 train. Booking was therefore stopped and many people were thus kept back. Out of this arose a general feeling to the effect that either all or none should go to the fair at Wazirabad. The train moved and in the rush the guard was stopped from getting into his compartment. As the guard was left behind, the train stopped at the distant signal. The mob at the station rushed towards

the train and succeeded in getting out of the train many of the people. The mob asked the driver to come down and the driver did so. There was thus nobody in charge of the engine. Some of the mischievous hooligans then took some burning charcoal from the engine and set fire to the old rejected sleepers lying near the Gurukula bridge. The happenings were purely accidental being due to the mischief of these very few people and were not at all premeditated. It is worthy of note that no damage at all was done to the bridge and the train passed away safely after some delay. Now, my Lord, as the mob was returning from the Gurukula bridge *via* the Grand Trunk Road, which runs parallel to the railway lines, it was increased by hundreds of other people from the town and the railway station. The news was on every lip that a slaughtered calf was hung up from a girder on the railway bridge on the Lahore side. Hindu and Muhammadan relations were perfectly friendly at the time, and people therefore suspected that this was the work of the C. I. D. This idea gained strength from the fact that there is a large number of Hindu temples in that vicinity. The effect of this idea was most unfortunate on the public. Munshi Din Muhamed, a local pleader and a Muhammadan leader, declared that it could not be the work of Muhammadans and that he would himself remove the carcase. This convinced the public that it was not the work of any Muhammadan acting on his own behalf and that it was the work of some police underlings. The excitement reached a very high pitch when people who had seen a slaughtered pig on the otherside of the station gave this news to the mob. The mob had now reached the place where the slaughtered calf was hung up. Mr. Heron, the Superintendent of Police, had also reached the place. Some of the enraged mob caught Mr. Heron and managed to throw him down and snatch away his pistol. This they did because they thought the police underlings had done the mischief to which I have referred. These young men were however, calmed down by Mr. Din Muhamed, who persuaded them to leave Mr. Heron alone and to give him back his pistol. When Mr. Heron had thus received his pistol he fired on the mob, particularly on those young men who had given it back to him. Now several persons were wounded—*vide* page 32 'Punjab Disturbances,'

published under the authority of Government. Thereupon, the excitement was fanned into a flame. The crowd then returned to the railway station and demanded the blood of Mr. Heron who had so unjustly fired upon them, and one of the men who was so wounded died the following day. The huge crowd faced the police, the municipal commissioners and the magistrates who had all arrived at the railway station, for more than two hours, the Grand Trunk Road alone separating the two. The mob continued to yell, tremendously enraged at the spilling of innocent blood. Mr. Heron wanted to open fire on the mob, although the magistrates and the municipal commissioners were doing their utmost to push the mob back into the town. The latter had just succeeded in persuading some people to go back when a shot was fired,—accidentally or deliberately, I cannot say—by a police constable. This fanned the flame again into a fire. The crowd, which had so far been passive and sullen, now got enormously enraged at this. They swelled in number. Mr. Heron gave the order to fire. Fire was consequently opened and many casualties occurred. Thereupon the excited mob resorted to many acts of incendiarism, burning the post office, the dak bungalow, the tahsildar's and the Honorary Benches' Courts, a block of the district courts, the railway godown, and the church. This again is vouched for in the 'Punjab Disturbances' published under authority . . . .

THE HON'BLE MR. J. P. THOMPSON:—"What authority has the Hon'ble Member for saying that the pamphlet entitled 'The Punjab Disturbances' was published under the authority of the Punjab Government?"

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA: "Is that not so? It is compiled from the 'Civil and Military Gazette,' second edition. Does my Hon'ble friend say that it is not published by the authority of the Punjab Government?"

THE HON'BLE MR. J. P. THOMPSON:—"The cover states by whom it was published."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, if Mr. Thompson will not give me a direct answer I am sorry I cannot say more. I was told it was an authoritative publication. If it is not, I am sorry

for the statement, but he ought to tell me whether it was or was not. We want facts. It contains many official Communiques.

"Now, my Lord, the people who were wounded by the firing of Mr. Heron at the Siddhan bridge where the slaughtered calf was hung up were taken through bazaar to Niyanin where an open air meeting was all the time being held to keep the public engaged. At this meeting, speeches on Hindu-Muhammadan unity were delivered, and the people were advised to be calm, *vide* instruction given to the Manager of the Islamia School by the acting Deputy Commissioner to deliver a lecture at the meeting. The Manager's statement in the Pleader's case will be quite sufficient for that purpose. The point I am coming to is that this was all the trouble, the regrettable, unfortunate trouble. But it was all over by about 3 P.M. Moreover, there had been no riots in the city proper. The people had kept perfectly quiet in the city, and all these events occurred in the civil station outside the Circular Road. Between 3 and 4 P.M., just about the time when, as was said in the 'Civil and Military Gazette' report, the crowd was dispersing, aeroplanes arrived. Now, my Lord, the crowd had dispersed and the remnants of the crowd were dispersing when the aeroplanes arrived and bombs were dropped from the aeroplanes in several places. I have seen several of the places where these bombs were dropped, and I have learnt on the spot that several lives were lost, five in one place and two in another. When the crowd had dispersed or was going back, I should like the Council to be informed where was the necessity for dropping bombs from aeroplanes upon the town of Gujranwala? It was not in one place that bombs were dropped but in many places, and in places in the centre of the inhabited parts of the city which was all surrounded by houses. One bomb was also dropped in the boarding house of the Khalsa High School, where 160 boys were about the place at the time.

"Bombs were also dropped in the suburbs of Gujranwala where the mob had committed no excesses, and also outside the town of Gujranwala over the house of Lala Amar Nath, pleader, one of the Secretaries of the Home Rule League. A bomb was also dropped in another village close by, where I am told, a woman and child were killed by it. Now, my

Lord, I should like anybody to tell me what earthly justification there could be for the dropping of half a dozen or may be more, I cannot say, bombs from aeroplanes over the people of Gujranwala when the mob had dispersed or was dispersing. This happened on the 14th. Everything was then quiet in the town, and a bomb was dropped again in Gujranwala on the morning of the 15th. I should like to know what justification can be pleaded for these actions. Now, my Lord, in spite of all this people kept quiet. There was no rising of the people, there was no violence committed by the people. What little happened near the railway station was under the circumstances which I have mentioned to you. One European gentleman, an engineer, I think, was living about a mile or so away, I cannot give exact distance, but sufficiently far away from the scene where the mob had committed any excesses. There was no danger to European life and no insult to any European lady. Why then was this bombing resorted to? My Lord, I should like here to know what was there in the state of Gujranwala to justify the declaration, to bring it in the category of places where there was proclaimed to be a state of open rebellion?

"Now, it is noteworthy, and I wish the Council to note that the events which took place at Kasur, the regrettable murder of two Europeans there and the cutting of telegraph wires in some places, the derailment of trains here and there; these are the events which took place. The papers gave a list of them and you know them. These unfortunate regrettable events took place subsequent to the 10th of April, when a wrong had been done, when as the people believed an unjustifiable wrong had been done to a number of members of the public by the firing that was resorted to at Amritsar. My Lord, you must make allowances, take note, I mean to say, of the circumstances which surround the case, and the fact that these events took place in these places after the deplorable occurrences at Amritsar is a circumstance to be taken into account. I do not want to extenuate the evil that was wrought. I deplore it, but I think it will not be right, it would not be just to exclude from one's consideration the sequence of events in order in judging where how much blame ought to be allotted to one or other party or two certain parties. Now, my Lord, I leave the main incidents so far as they

affect the question of a state of open rebellion at that. I would now invite your Lordship's attention to the second important part. What I have said has reference to the statement in the preamble of the Bill that 'owing to recent disorders in certain districts in the Punjab and other parts of India, it has been necessary for the purpose of maintaining and restoring order to resort to martial law.' I respectfully question the correctness, the truth, of this statement, and I submit that if the Council is not placed in possession of facts that may be in the possession of Government, if the Council is not placed in possession of facts which would justify the statement that there was open rebellion in Amritsar, Lahore and other places, this preamble of the Bill ought not to stand where it does.

"Then, my Lord, the second point to which I would invite attention is, in the preamble also. It says that it was necessary for the purpose of maintaining and restoring order to resort to martial law. Now, my Lord, what are the facts? I have submitted that all was quiet at Amritsar at about 5-30 or so on the afternoon of the regrettable day when several European and Indian lives were lost. On the 11th and 12th there was no violence on the part of the people. On the 13th the violence that took place was on the part of some of the authorities and not of the people. Beyond the 13th nothing took place on the part of the people. How was it necessary, then, for the purpose of maintaining or restoring order to resort to martial law? Order had been restored; the passions, the regrettable passions which had led to certain crimes, had been exhausted, had exhausted themselves. The people felt that there was nothing more to be concerned about. There is one important circumstance to which I will draw attention in this connection. The Hon'ble the Home Member made a fervent appeal to those of my friends who have been blessed with large stakes in the country to reflect what would be their fates and the fates of their property if law and order were not to be preserved. Let me tell the Hon'ble Member and all who may wish to know it that the police in Amritsar was practically absent after these disorders and that the people themselves organised parties and kept watch and ward over the city and very few unfortunate events occurred; I believe that none occurred at all, so far as I am told. The people

finding that the police were not doing their duty in keeping watch and ward and giving protection, organised themselves into parties and protected their town from any mischief either within or from outside. I submit, therefore, that the statement that it was necessary for the purposes of maintaining or restoring order to resort to martial law is not correct, so far as Amritsar is concerned.

"Now, let me come to Lahore.. Is it correct in the case of Lahore? I have submitted that while Lahore had a large European population neither at the time of the trouble on the 10th nor at any other time was any European in danger of his life or of his liberty. It is said, as was pointed out by Mr. Chanda, several days after the events that a European police officer had received a hurt and that his head had to be bandaged, but it was also stated that the hurt had been caused to him by a policeman. That being so, my Lord, I ask every Member of this Council to call for information which would convince him that there was any danger which any reasonable man—men who are overtaken by cowardice or who have a craven fear, an indefinable fear may run into panic—but I should like to know any circumstances which could have led any decent man, European or Indian, to think that his life or honour was in danger in Lahore during the days between the 10th and 15th April, when it was declared that Lahore was in a state of open rebellion. I submit it was not. I submit that it is to the credit of Lahore that though these unfortunate events, shooting of some innocent persons, had occurred, it kept its head cool and it did not give its fellow-citizens, its European fellow-citizens, men or women, any cause to think ill of the people of Lahore. It did not give any fellowmen among Europeans any cause to adopt an attitude of resentment much less of vindictiveness towards any fellow man, and yet, my Lord, it was declared that Lahore was in a state of rebellion. I submit it was not, and that is a cardinal point in dealing with this Bill.

"My Lord, what are the orders that were issued under martial law, which even by the wildest stretch of the imagination can be said to have been demanded for maintaining or restoring order? What are the facts which made it necessary to issue the orders for maintaining or restoring order in Lahore? I gave notice, my Lord, I tried to elicit facts by

a string of questions; unfortunately as I have said before Government have not thought fit to answer them, and I take it, I am entitled to take it by implication, that they have admitted the truth of it; at any rate until on behalf of Government facts contrary to those implied in my questions are stated, I am entitled in dealing with a matter of such grave importance as this Bill to assume that the truth of those statements cannot be impeached. Now, my Lord, what are the martial law orders that were issued? Before I proceed further I should like to refer to the particular martial law order to which the Hon'ble the Home Member drew attention. If in the light of subsequent events the spirit of that order had been observed, we should not now be discussing this Bill to-day. But unfortunately the acts carried out went far beyond and greatly against the spirit of that order. The first question to which I shall draw attention is that of flogging. How many persons were flogged and for what offences? I have looked into the question and I find that there is a provision that flogging should not be one of the punishments to be inflicted by the Martial Law Commission. If I am right, and I think I am right, then it is regrettable that flogging was resorted to to the extent it was during the continuance of martial law at Lahore, Amritsar and other places. My Lord, can anyone tell me that it was necessary to resort to flogging in order to maintain order or to restore order? With the ample military resources of the Empire to which your Lordship referred in your speech on the 3rd instant, did the Government stand in any danger of having their authority upset if they did not resort to this vile form of inflicting punishment on a fellow-man. I should like to know what justification can be pleaded for the flogging that was resorted to in various places. My Lord, leading men were arrested in Amritsar. I will refer to the orders as I find them in order to save time.

"My Lord, I asked the Government to be pleased to lay on the table copies of orders and proclamations, posters, notifications and notices issued by the administrators of martial law in the Punjab . . . . . .

THE PRESIDENT:—"Order! Order!! The Hon'ble Member is entirely out of order. He knows perfectly well that this is a question he put forward to me as President to

be allowed or disallowed. I disallowed it for reasons which appear on the face of the rules in regard to the asking of questions. The Hon'ble Member knows perfectly well that no discussion in Council can be permitted in respect of any order of the President under rule 7 or 8. I cannot allow the Hon'ble Member to proceed with what is really a discussion of my orders in regard to that matter."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"Thank you, my Lord. I did not propose to discuss your Lordship's order. I wanted information and I was going to explain why I have not got it."

THE PRESIDENT:—"You proposed to discuss it in another way."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"True, indirectly that would be the result, my Lord."

THE PRESIDENT:—"Quite so. I am glad that the Hon'ble Member has made that admission. That is exactly what he is aiming at, and I do not intend to permit it."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, the propriety of your disallowing the question was not the point I had in mind; what I wished to explain was, that I was not able to refer to proclamations, etc., which had been issued. I hope, my Lord, that you will feel that that is the correct explanation. I am in the unfortunate position that in discussing a Bill of this comprehensive character which deals with martial law I have to refer to martial law notifications, etc., and if I refer to the difficulties in which I am placed, I have not the remotest idea, my Lord, directly or indirectly, of making a reference to the propriety of your disallowing my question. Many martial law orders and notices were issued. I am unfortunately not in a position to place them all before the Council, because I have not got them. I shall try to show that all could not possibly be justified on the ground that they were necessary for the purpose of maintaining or restoring order. That is the point on which I am asking the attention of the Council. Let me refer to one. I am told that in a lane known as the Durga Koti Wali Lane every Indian irrespective of age or position had to pass through crawling on his belly the whole length

of the lane. British soldiers were placed there to see that the order was obeyed. I should like to know if this was necessary for the purpose of maintaining law and order? Then, my Lord, the electric lighting and the water-supply of the city of Amritsar including the civil lines was cut off for four or five days from the 12th of April last. It is also a fact that a large number of wells in the city of Amritsar had been closed when Mr. King was Deputy Commissioner, because he thought that the water of the wells was not healthy. By the shutting off of electricity and water supply much hardship was inflicted on the people. I should like to know how this was necessary in order to maintain order or to restore order? Then, my Lord, it is said that a number of people, very respectable people, including bankers, lawyers and doctors, were kept handcuffed in pairs for several days. They were kept in an open racket court, where it was very hot in the day, and very cold at night. They were kept handcuffed continuously for 24 hours of the day for several together and they had to eat, drink, sleep and attend to the calls of nature whilst handcuffed in pairs. I should like to know if it was necessary for the maintenance of law and order to issue such orders or carry out anything of that sort? Further, I am told that when on the 15th April the aeroplanes did their work and frightened the people of Gujranwala as they did, there was not the smallest suggestion that there was any spirit of rebellion or resistance in the town.

"The Deputy Commissioner of Gujranwala, with a strong body of police and European soldiers and with an armoured car marched to the house of Lala Mela Ram, B.A., LL.B., pleader, and arrested and handcuffed him and took him away, without allowing him to dress himself or to speak to his family. The party then met Mr. Labhsingh, M.A. (Cantab), Barristar-at-law, and arrested and handcuffed him and chained him with Lala Mela Ram. They proceeded to the houses of twenty other gentlemen (pleaders, bankers and other respectable citizens) and arrested and handcuffed and chained them all together. The persons so arrested and chained together were marched to the city, two and two, headed by a Hindu and a Mahomedan, to ridicule Hindu and Mahomedan unity as was stated at the time by Colonel O'Brien. Two Municipal Commissioners under the order of Colonel O'Brien

walked in front of the procession thus formed and pointing to the aeroplanes hovering overhead kept on shouting to Indian people to make way for the prisoners on pain of being bombed or shot down. After being thus paraded through the principal streets of the town the prisoners were taken to the railway station and put into an open coal truck which was guarded by a number of European soldiers with fixed bayonets and by an armoured engine with a gun directed towards the prisoners. The prisoners were not allowed to leave their places even for the purposes of attending the calls of nature and some of these gentlemen had to be there and to suffer all the trouble in the condition they were. My Lord, I am further told that on reaching Lahore railway station and before being removed to the jail, the prisoners were kept for about ten hours along with thirty other prisoners in a room which opened by means of an iron barred and panelled door into another room which was used as a latrine. My Lord, I am told that a number of pleaders and other respectable citizens in the town of Shahupura in the District of Gujranwala, were arrested and treated in a manner similar to that adopted at Gujranwala and were subjected to similar inconveniences and indignities when being taken to Lahore. I am told further that almost the entire population of the town of Shahupura above the age of 10 years, irrespective of rank or social position, was summoned by Mr. Bosworth Smith, I.C.S., Joint Deputy Commissioner and one of the Martial Law Officers, and made to sweep a large open piece of ground. I am told, further, my Lord, that a large marriage party of certain Mahomedans of the village of Rajgarh within the Municipal limits of Lahore was arrested and the members thereof were convicted by one of the Martial Law Officers. My Lord, these are some of the allegations which have been made in regard to the unfortunate events at Amritsar and Gujranwala. I should like to know which of these punishments was necessary for the purpose of maintaining or restoring order. Now, my Lord, I will draw the attention of the Council to some more facts, to give them an idea of the indignities perpetrated in other parts. I will draw the attention of the Council to the allegation, among others, that Moulvie Gholam Mohi-ud-din, pleader of Kasur, who had last year been publicly rewarded for his services in connection with

the War and Maulvie Abdul Qadir, a senior pleader of Kasur, were arrested and kept in confinement for some weeks in an improvised lock-up near the railway station, and were then released without any charge or trial. I am told that several school boys at Kasur were flogged, and I should like to know how that was necessary for the purpose of maintaining law and order. My Lord, it has been stated, and the facts cannot be denied, that Mr. Manoharlal, M.A. (Cantab), Bar-at-Law, formerly Minto Professor of Economics at the University of Calcutta and now a prominent member of the Lahore Bar, and a Syndic of the Punjab University, was arrested and kept in jail for nearly a month, including one week of solitary confinement. Will anybody tell me why it was necessary to put this respectable gentleman to this indignity? Will anybody tell me why this gentleman was arrested? I am told his whole sin was that he happened to be one of the trustees of the *Tribune* paper which had enraged some of the officials, particularly the Head of the Punjab Government. For the crime of being a trustee of a paper which was edited by a gentleman whose name was known and whose articles have been pronounced by most competent and sober Indians to have written very carefully, this respectable gentleman, a member of the Bar and a Minto Professor, was subjected to this indignity. I should like to know from the Council's own lips how much indignity was inflicted upon him and how much hardship he suffered. I should like to know why this was done? Then Rai Saheb Seth Ram Pershad, a Municipal Commissioner in Lahore, one of the largest house proprietors and bankers of Lahore, was arrested in April last and marched on handcuffs to the Central Jail, a distance of nearly three miles, kept in solitary confinement, and then released without trial after several weeks. Does the Hon'ble the Home Member ask the Council to indemnify these officers who inflicted these indescribable indignities upon their fellow-men as respectable as any Member of this Council? Does the Hon'ble the Home Member mean to ask the Council to indemnify officers against such acts? My Lord, the list is long. I do not wish to take up the time of the Council unnecessarily except to the extent that it may be necessary to impress upon every Member of this Council the necessity of examining carefully the proposals in the Bill and the pro-

posal which is now before the Council before giving its assent. My Lord, there is a case from Amritsar, of Dr. Kedar Nath, a retired Civil Surgeon, aged 60 years, who had been invalided in 1909 on account of heart troubles; he was arrested and handcuffed and marched through the streets with 62 other prisoners in a cell which kept in confinement for a fortnight with two other prisoners in a cell which was meant for one person and then released without trial. Now, martial law notices were posted at the houses and shops of a number of people at Lahore with directins that the occupant must guard the posters, and that if they were damaged, torn or disfigured, the occupants would be severely punished under martial law. My Lord, one of these persons, an English lady, the wife of Pir Taj Din, herself told me that she had to keep a watch to see that the posters stuck to their house were not damaged or torn so that she and her husband might not come in trouble, and all this trouble could not be prevented by the fact of her being an English woman. I should like to know why it was necessary to subject respectable people to all this hardship and indignity?

"My Lord, the manner in which the students were dealt can be gleaned from another incident to which I will call the attention of the Council. The students of Lahore have been wronged beyond expression, and I should like to know how it was necessary for the maintenance of law and for restoring order to deal with the students in the manner that was done. All the students of the Dayanand Anglo-Vedic College, the Dayal Singh College, Lahore, and the Medical College at Lahore were required to attend roll calls before military officers when they were made to stand in the sun guarded by the military, with fixed bayonets and this process was continued for three weeks immediately preceding their University examinations.

"In the case of the King Edward Medical College, the total distance which the students were made to traverse on foot in the summer heat for attending the roll call, amounted to not less than 16 miles a day. Some students actually fainted while going to, attending, or returning from, such roll call parades and it was after that that a nearer place was fixed for taking the roll-call. My Lord, the Principals of certain Colleges in Lahore were coerced by the Martial Law

Administrator to inflict very severe punishments on a certain percentage of their students without regard to any evidence of their guilt. Some of them were expelled, some were rusticated, some were sent down one year, and I am told that a number of students were fined. I am told that the total number of students who have been subjected to this injustice and wrong is about a thousand. I should like to know how this was necessary to maintain order.

"My Lord, it has been alleged by some of those who were tried that in the case tried by some of the officers who were empowered to deal with these cases, especially towards the close of the martial law period, the accused were convicted without the whole defence evidence being heard, even though witnesses were present, on the ground of want of time. For instance, in the case of Lala Gurdasram and Lala Shivaram, pleaders of Hafizabad in the District of Gujranwala, who were sentenced to two years' rigorous imprisonment each by Mr. Wace, I.C.S. My Lord, a student, Ramlok, son of Daulatram, aged 17 years, was arrested on the 25th April, and having been detained in police custody for three weeks, was released for want of evidence against him. Several days after release, his father Daulatram appeared as a defence witness for one Ram Ditta and deposed that the police had asked Ram Ditta to turn an approver but he had refused to do so. On this his son Ramlok was re-arrested on the following day and put on his trial for the very same offences for which he had been arrested and released before. The trial of Ramlok was fixed for the 9th and 10th June, but as martial law was going to be withdrawn at midnight on the 9th June, the trial was accelerated to the 5th June without any previous intimation having been given to the accused or to his father. The accused was tried and sentenced to one year and seven months' rigorous imprisonment for offences under sections 147, 426 and 506, Indian Penal Code, by Mr. A. L. Hoyle, I.C.S., officer presiding over summary courts under martial law, without any chance being given to him to produce his defence.

"And, my Lord, one Bhagwansingh, a meat seller of Lyallpur, was arrested on the 6th June last and placed before the Martial Law Summary Court on the 7th June; on the 8th June part of the evidence was heard, and the case was

adjourned; but as martial law was to be withdrawn at midnight on the 9th June, the case was taken up at 11 o'clock that night without any opportunity being given to his counsel to be present, and the accused was sentenced to three months' rigorous imprisonment.

"My Lord, in some of the cases tried by the Martial Law Commissioner constituted under Ordinance No. 1 of 1919, no record of evidence of witnesses, either for the prosecution or the defence, has at all been made, nor judgments recorded, though heavy sentences have been awarded. For example, the case of Crown *versus* Fazla, son of Gumardi Kakezai, convicted under section 124-A, and sentenced to transportation for life by the Commission presided over by Lieutenant-Colonel Irvine, on the 26th of April, 1919, and trials Nos. 20 and 21 of Hansrai and Hariram of Amritsar, before the Commission presided over by the Hon'ble Mr. Justice Leslie Jones, I.C.S., Judge of the High Court of Judicature at Lahore, convicting the aforesaid persons to seven years' rigorous imprisonment each under section 412, Indian Penal Code. Now, my Lord, in several other cases examination of outside witnesses for the defence was refused except by interrogatories. In some, no one would like to believe it, but in some cases even the offence with which a man is charged has not been mentioned. I hold in my hand a copy of an order with findings dated 26th May, 1919, passed in the Court of A L. Hoyle, Esquire, Magistrate, 1st Class, of the Layallpur district at Lyallpur, in Martial Law Cases held at Layallpur, for Dijkote Tehsil, Layallpur.

It says:—

'Finding—All accused guilty.

'Penalty or disposal:—

'Accused No. 1, Basant Ram, 2 years' rigorous imprisonment,

'Accused No. 2, Charan Dass, 9 months' rigorous imprisonment,

'No. 3 Jawandar Ram, 9 months' rigorous imprisonment,

'No. 4, Bhagat Singh, 6 months' rigorous imprisonment.

(Sd.) A. L. HOYLE,

Summary Court.'

"My Lord, this is the way in which people have been deprived of their honour and liberty. Is it meant that these shall be indemnified?

"There is another copy of an order dated 28th May, 1919 with finding, passed in the Court of the same gentleman, Mr. A. L. Hoyle, Magistrate, 1st Class, at Lyallpur.

'Finding.

'Accused 1 to 12 each guilty of rioting (section 147, Indian Penal Code) and offence under section 25 of the Telegraph Act, accused 13, 14, 16 guilty under section 147, Indian Penal Code, accused 15, 17 18 doubtful.

'Penalty or disposal.

'Accused Sita Ram (1) 2 years' rigorous imprisonment for each offence, accused Ram Dutt 6 months' rigorous imprisonment for rioting and 18 months' rigorous imprisonment for the offence under section 25, Telegraph Act, Amar Nath (2) Kesar Mall, Gyan Chand, Amar Nath (6) Agya Ram, Kaka Ram, Hari Chand, Divan Chand, Girdhari, Sita Ram (12), 6 months' rigorous imprisonment for rioting and 1 year rigorous imprisonment under section 25 Telegraph Act. All sentences consecutive.

'Kesar Singh, Teja Singh and Bhag Singh 3 months' rigorous imprisonment, Nand Singh, Balwant Singh and Jaimal Singh acquitted.'

"Now, my Lord, this is the way in which havoc has been made of the liberty and honour of many fellow-subjects of ours.

"My Lord, there are other instances to some of which I must invite attention. An order was issued that every Indian who should pass by a European must salaam, and in some places they were told that they must get down from a carriage if they were driving at the time. In several instances unfortunately several Indians were flogged or otherwise punished for not salaaming to Europeans and not carrying out this martial law order. In one case one Gopaldas, son of Deviditta Mal, caste Arora, of Akalgarh, who was a telegraph peon at Lyallpur during the martial law days was arrested for not salaaming a European officer to whom he had gone to deliver a telegram and that he was given five stripes for it in jail, although he protested that he had actually salaamed the officer and was willing to do so again. I should like to know, my Lord, if this was necessary in order to maintain law and order. In some of the districts where martial law was in force orders were issued that every Indian driving in a carriage or riding a horse must get down when he passed by a European, and, further, that Indians carrying open umbrellas must close and lower them when they met a European.

"My Lord, the evil was not confined to these few places and these few cases to which I have drawn attention. There has been much more injustice done, and I shall draw attention to one of these that occurred in Ramnagar. I am reading from the Judgment at Ramnagar, my Lord. There were 28 persons accused. No un-toward event happened at Ramnagar at any time.

"When the news of Gandhi's arrest reached there, I am told that a few boys expressed their mourning for the event and went to bathe in a river in the locality . . . . . .

THE HON'BLE SIR WILLIAM VINCENT:—"May I inquire, my Lord, if this is the Ramnagar where the King's effigy was burnt?"

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"This was alleged but it was an untruth."

THE HON'BLE SIR WILLIAM VINCENT:—"I only wanted to know, my Lord."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, my friend thought that he had scored a great point in mentioning that. I have not less respect for His Majesty the King Emperor than the Hon'ble Sir William Vincent has, but I will show to your Lordship and to the Council that an untrue story was concocted and had to be abandoned, and that the facts would not justify the punishment which was inflicted upon the people. Now, my Lord, at Ramnagar, on the 15th instant, a certain number of boys met together and expressed their grief or resentment, whichever you please, at the arrest of Mr. Gandhi and the Rowlatt Act. They went and had a bath in the river which runs through the locality. The event passed off, no notice was taken of it, and it was reported that there was quiet in Ramnagar. A few days afterwards the Deputy Commissioner, Colonel O'Brien I think it was, went there, certain instructions were given and the Revenue Assistant called a meeting of the citizens of Ramnagar and arrested four men. Several days afterwards, I think it was on the 12th of May or the 28th May, I do not exactly remember which, 23 or 24 other persons were got hold of and also *challaned*. Another man was subsequently arrested and so the party was made up to 28. The charge against them was that they had burnt the

effigy of the King. I will read the judgment to your Lordship. It says:—

'Bhagwan Dass, Kapur Chand and Barkat Ali are eye witnesses to the fact that a mob of Hindus in whom the 28 accused were included burnt the effigy of King George on the bank of a creek of the Chenab near the town of Ramnagar and then marched back through the town. The leader in this was Hari Singh Giani, Headmaster, who produced a small effigy which he burnt on a funeral pyre on the bank and throughout acted as crier, while others answered as chorus. The cry raised was 'Rowlatt Bill Kala Bill Marya' (and His Majesty's name is brought in and abused). 'The Rowlatt Bill, Black Bill is dead' (and abuse of the King Emperor). 'The ashes were cast into river by Hari Singh and most people bathed as purification. Other witnesses one Hindu and several Muhammadans, give evidence that Hari Singh Giani, Daulat Ram, Balmokand, Karam Chand and Gobind Sahai organised a *hartal* on the afternoon of the 15th and had called all the Hindus to a meeting near the river. On their return they came through the town headed by Hari Singh as crier, shouting out Rowlatt Bill Kala Bill marya (the Rowlatt Bill, the Black Bill, is dead, and abusing His Majesty—I am translating the words, I do not wish to utter them). 'The crowds are said to have consisted of about 200; but all three principal witnesses united in naming the 28 accused. Some named others but these have been weeded out where not corroborated. The witnesses who saw the crowd return also named the accused though one or two were doubtful in the case of 5 or 6.

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'All the accused plead not guilty. Most of them call witnesses for good character or for *alibis* of no value. It is noticeable that witnesses for the defence do their best to prove their own absence during the period of the alleged offence, which suggests that they are not prepared to deny that such a thing took place.

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'Of the defence witnesses worth noticing, those for Balmokand tried to prove an *alibi* for him in Gujranwala. He himself claimed to be in Gujranwala up to 1-30 on the 15th.

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'Other witnesses speak of having met Balmokand on the road. But they avoid arguments which might agree and be tested on cross examination. On the other hand, it is shown by evidence that Balmokand rode off from Gujranwala and passed Manchor 3 miles from Ramnagar at midday on the 15th.

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'It is indisputable that the affair of burning the King Emperor (he says burning the King Emperor but he evidently means the effigy of the King Emperor) took place. There certainly was a *hartal* and the people

went to the river. Although a few witnesses for the defence try to declare that there was no *hartal* ever, this is disproved by the first report when it was known that anything more serious had happened and also by the anxiety of the majority of the defence witnesses to prove their own absence. The evidence that the King Emperor was burnt in effigy by Hari Singh with the plaudits of the mob sitting round him is also ample. Two Hindus and one Muhammadan gave evidence to this, as also to the casting of the ashes into the river and the purification of the Hindus by bathing. Many more witnesses prove the return of the party through the town with Hari Singh chanting in front 'Rowlatt Bill Kala Bill marya, etc.' The case did not come to light for a week and could not be investigated till later, but this was due to the absorption of all officials in the outrages elsewhere and the Sub-Inspector in those of Akalgarh. The story is not one that would have been invented. I find that the case has been well sifted and that the 28 accused are proved by the evidence of the prosecution to have been there.

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'The offence is so gross that the accused are lucky in not having been sent up to a Tribunal. Hence the maximum imprisonment must be inflicted on almost all. Many of the accused are wealthy and heavy fines are very suitable. I sentence them as under :—

1. Daulat Ram,
2. Balmokand,
3. Karam Chand,
4. Gobind Sahai,
5. Hari Singh,

to rigorous imprisonment for two years, of which three months to be in solitary confinement and to pay fines of rupees one thousand each, or in default rigourous imprisonment for six months in addition.

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"Now, my Lord, the people say that if there was a fair trial it would be established that this story was entirely untrue, and that they did not burn the effigy of the King Emperor. Now, these people, as the judgment says, were wealthy and respectable, and for that reason they were sentenced to such heavy punishment and such large fines, which, in the case of such people, is a very serious matter. These respectable people had no reason to indulge in such foolish and wicked mischief, but you subject them to trial in a summary court, where their honour is concerned, and you do not give them an opportunity to establish their innocence, and they are sentenced to two years' rigorous imprisonment. These are the cases in which the Bill seeks that the sentences

shall be confirmed. I submit, my Lord, that nothing could be a grosser wrong than to ask the Legislative Council to confirm sentences of this nature, where men have not been given an opportunity to have their defence properly put and where they have not been given an opportunity to appeal to a higher tribunal.

"Now, my Lord, I will not deal with any more cases. I think what I have submitted is sufficient to show how great is the need for having the facts of these unfortunate times sifted and well established before an Indemnifying Bill should be dealt with by this Council. As I have submitted before, there are two points essential in asking for an Indemnifying Act. One is, that there should have been either open rebellion or war against the King or riots or insurrection which amounted to war, and, secondly, it should be necessary to show that, even if such a necessity arose and that the acts done were such as in the language of the three Statutes which he quoted were so much to the good of the public, so much for the benefit of the public, that those acts ought to be justified by the Legislature, and that the officers who did them ought to be indemnified. I submit, my Lord, that this has not been shown to be the case. Now, the Hon'ble the Home Member tells us that the question whether martial law was necessary will be discussed and settled by the Committee of Inquiry, but he says 'Go further. Take the fact that martial law was declared. Then I ask you to consider the case, the position, the pitiable position of those officers, who were ordered or directed or commended to do certain acts. We promised them in our Resolution of the 14th of April, 1919, that we would give them our ample support. We are bound in honour to protect them from the results of actions which they undertook upon that assurance.' My Lord, that is begging the whole question. If you are not right in giving them that assurance, that assurance will not stand them in good stead. You ask that the Council shuld pass this indemnifying measure, and you say that the question whether martial law was necessary or not shall be determined by the Committee of Inquiry. I submit that this is a preposterous proposition to put forward before this Council. What will be the effect of the decision by the Committee of Inquiry as to whether there was open rebellion in Lahore

or Amritsar or not? In the quotation to which I have referred Earl Halsbury has made it clear that the Crown may not issue commissions in times of peace to try civilians by martial law; but when a state of actual war, or of insurrection, riot or rebellion amounting to war exists, the Crown and its officers may use the amount of force necessary in the circumstances to restore order.

"The cardinal point is, whether there were circumstances which justified the declaration of martial law. You cannot go on to deal with this Bill without first dealing with that cardinal point. If you think that you owe it in courtesy to the Inquiry Committee which you have constituted to leave the decision on that important matter to them, I say in fairness to every one concerned, including the Government, stay your hand, do not proceed with this Bill. Wait for the result of that inquiry. Let the facts be sifted out and when the facts have been sifted out, indemnify officers for all acts done in good faith with reasonable care and caution, for restoring order or maintaining it, wherever it might have been necessary. No sensible man would for a moment object to His Majesty's officers or those acting under their instructions being indemnified and protected against the consequences of acts done by them in good faith with reasonable care and caution in circumstances where the existence of martial law would be justified. But where the existence of martial law is not justified, where the very fundation upon which martial law rests is non-existent, I submit, these officers have to take their chance of having their cases adjudged and determined in the light of equity and justice by ordinary Courts in the country.

"Now, my Lord, the Hon'ble the Home Member said he did not want to prejudice the inquiry that the committee is going to make. But I am sorry to say his observations read outside this Council and in England will leave only one impression, though he may never have meant it. His speech could not be better framed if the object was to prejudice the inquiry than it was framed. My Lord, the Hon'ble the Home Member says 'Well, I do not want to go into the facts—that is a matter for the Committee of Inquiry. But the Committee of Inquiry are not going to censure any man for performing any act in good faith.' What is this, my Lord? Why raise the question now? When you say the Committee

of Inquiry is not going to pass any censure upon Government, what, I ask, is the Committee going to be allowed to do? Either state things frankly and fairly and leave the matter to the Committee's decision, or say frankly, as you have the power to say it, that you do not want any inquiry into these dark deeds and that you want to throw a veil over them. Throw it if you can; in this country you can do it, but of course the fear of the English public and Parliament might deter you from doing so. In that case I say stay, wait. do not proceed with this Bill until you have the report of the Committee of Inquiry. The Committee of Inquiry will certainly be prejudiced if they read the speech of the Hon'ble the Home Member. They might well take it as their instructions from the Government, because the Hon'ble the Home Member does represent your Excellency's Government in all these matters, even more perhaps than your Excellency does. Therefore, with this speech before the public, the public at any rate will consider it very remiss on that part of the representative of the Government to give expression to the opinions and remarks to which the Hon'ble Member has given expression to-day. The Hon'ble Member also said that he did not want to prejudice and points to a provision in the Bill, particularly guarding against the effect of this Bill upon any judgments which the Privy Council may wish to pronounce. But, my Lord, if you indemnify acts in the manner in which you are doing with the provisions in this present Bill, well may their Lordships of the Privy Council complain that you have done what no ordinary citizen is expected to do, namely, to pronounce judgment on some important aspects of the case before they have had time to deal with them. My Lord, I wish here to make it very clear that I have done all that I could as an individual Member of this Council to postpone the discussion of questions of fact and law relating to the events that have occurred. I gave notice of questions—I do not refer to them now—I am only showing how I gave notice of these questions with a view to elicit facts which might postpone the introduction of the Bill. Many Members of this Council, if not all, were anxious and they expressed their desire to the representatives of Government that the introduction of this Bill might be delayed until the Committee of Inquiry had submitted their Report. My Lord, we are not

anxious for any particular verdict. God knows I am not anxious that the fault or guilt shall fall upon any particular individual. I only want the facts to be proved; I only want that the facts being proved whosoever may have been responsible for these facts should stand a trial before the public opinion of this country and the public opinion of the High Court of England. We are only anxious that if you adopt a particular course, if you appoint a Committee of Inquiry to go into those facts, we only think it fair that a discussion upon facts which the committee has to deal with or the law which the committee may have to consider should be avoided. I should have been very glad to avoid such a discussion—it has been forced upon me and I wish this to stand on the record of the proceedings of this Council. But, my Lord, we are driven to this. The dead men of Amritsar and of other places, their souls appeal to us to point out to your Excellency's Government the facts which are cardinal, of vital importance, in a consideration of this affair. The men who have lost their sons, the men who have lost their brothers, the women who have lost their husbands, the mothers who have lost their sons who are mourning the deaths of these persons who have met an untimely end, they call for the most careful consideration of this affair. They call that no decision should be arrived at and that no Act should be passed which would prejudice a proper consideration of their case. The Government cannot say that the delay of a few months will really prejudice their position. If the Hon'ble the Home Member, advised by the Hon'ble the Law Member, felt that if a Bill like this is not passed every moment of detention of numerous persons who have been condemned by the Martial Law Commissions and the Martial Law Summary Courts in jail is an unjustifiable detention of such persons, why did the Government not introduce the Bill earlier? Why did you not call a meeting of the Legislative Council earlier to deal with this matter? If they have allowed so much time to pass, if it is only now that public opinion is forcing attention to those questions, to what has happened in the manner in which it is doing, that they now sit down and consider what they should do, and if they now want to introduce provisions to safeguard them, I say they might well have waited, they might well wait another few months until the Committee have reported.

"My Lord, there is a provision giving retrospective effect to the Bill; that provision might be of some use to those who want this Bill in order to prevent any evil result which they do not desire in cases which they may institute. I do not know of any case which has been instituted. I believe the Punjab has been frightened out of description; the Punjabis have been terrorised in a manner in which I have not known the people of any other part of the country to have been terrorised. In spite of the presence of Sir Edward Maclagan in the Punjab that terror has not yet entirely been removed from the minds of the people. In this state of things they are not anxious, I do not know that many are anxious, to institute any suits. I do not know that any suits have been instituted and that many are anxious to rush forward with cases into the Courts. All that they desire at present is, to know what has happened and to have it established and then to consider what should be done. Indeed, they might well expect the Government to take such action as the Government might think fit. Because you cannot expect that where the number of persons to whom injury has been done is so large and many of them are poor, it is hard to expect that they will be able, that many of them will be able, to seek redress and to obtain it. It is only if the conscience of the Government, to which the Hon'ble the Home Member referred, if the conscience of the Government should be stirred by the recommendations of this Committee of Inquiry, if the Government should think it that they owe it to His Majesty's Government and to the name of Britain and to British justice, to bring certain persons, they may be Indians, they may be Europeans, to bring certain persons to justice, it is only then there would be a chance of justice being done.

"My Lord, there is no reason why the Government should be in a hurry to proceed with the Bill.

"Now, having said this much on the general aspect of the Bill, I shall now address myself to some of its provisions and to the remarks which the Hon'ble the Home Member made in regard to it. The Hon'ble the Home Member said that, when martial law is introduced, the officers of Government have no time to wait, to examine things that they must take action, that they may perform acts which are illegal, but so long as they perform acts which are moral and proper

they should be protected. From what I have said it will appear that it is very important to find out which acts come under that category, which though not legal are right and proper. Then he said that an Indemnity Bill of some character is the inevitable sequel of the introduction of martial law. I have myself said in the early part of my address that an Indemnity Act of a certain character may be inevitable, but this involves two important questions. What are the circumstances in which an Indemnity Act is passed? and what would be its nature? The Hon'ble the Home Member quoted Dicey, who himself says that the time the Act is passed must be one of national danger. I have shown that there was no national danger. In a few cases individuals lost their reason, were carried away by passion and committed acts, but we cannot say that these constituted national danger. My Lord, in this connection I wish to draw attention to the contrast furnished by a case I shall cite, and to which reference was made in the cablegram of the Indian Congress to which I alluded before in Council. At the time there was trouble at Lahore there was also trouble at Ahmedabad and Viramgam. His Excellency the Governor of Bombay allowed Mr. Gandhi to go to Ahmedabad and see the people and to work freely among them. He was able to satisfy the people and to quiet them, also to censure them for the outrages they had committed. Martial law was gone in a few days. That was all that was needed at places like Amritsar and Lahore at the utmost. I say there was no justification for martial law in Amritsar, because it was stated to be quiet after 5-30. Assuming even that there was justification for martial law on the 10th April, it should have been withdrawn by the 12th or 13th. The action taken in Ahmedabad forms a happy contrast and affords an instructive lesson in the light of what has happened here. The Hon'ble the Home Member says that there must be a period of national danger when martial law is introduced. I agree with him, but I submit that there was not a period of national danger in the Punjab to justify the introduction of martial law. The other point that he referred to in the quotation from Dicey was, that the acts done must be *bona fide* and solely in the public interest. It is only in such cases that the persons can be indemnified. I ask the Council, in view of what I have said, to judge whether

a Bill of such a sweeping character should be placed before the Council in the light of events that exist now, at a time of non-ascertainment of facts and of the allegations which have been put forward on behalf of the people. Then he refererd to various Colonial Legislatures including the South African which have passed Indemnity Acts.

"I may mention here that members of this Council are put to great inconvenience for want of a good library for ourselves. We have at times to borrow books, not only from the library of the Legislative Department which perhaps caused a little inconvenience, but also to get them from distant places in order to carry on our work. I am indebted for a copy of the Cape of Good Hope Act to the Hon'ble the Law Member, who at my request allowed me to refer to it. The absence of such books hampers our work; if we had such books we might be able to save the time of the Council. In the case of this Cape of Good Hope Act the question was considered by a Commission consisting of the Lord Chief Justice, General Ardagh and Judge Bigham of His Majesty's High Court. It consisted of a court of gentlemen of the type I should like to have seen here. It would support some other points to which reference was made in a previous Resolution. Now to come to this Act, VI of 1900. This was passed while the Boer war was going on. It set out the circumstances under which the Act was introduced. It was to punish those persons who had taken up arms against Her Majesty the Queen or otherwise assisted her enemies. It was for the suppression of hostilities and for the maintenance of good order. My Lord, this Act cannot afford any parallel for the legislation which is now under consideration. The Act passed in 1902, No. 4 of 1902, is also important. It was an Act to indemnify the Governor of the Colony and the officer commanding His Majesty's forces in the Colony and all persons acting under their authority and in good faith in regard to acts done or committed during the existence of martial law, to validate certain sentences passed by courts-martial or military courts and to confer certain powers on Commissioners to inquiring as to, and reporting on such sentences being still unexpired. And it promised indemnity in respect of certain acts, matters and things whatsoever that were ordered as necessary for the suppression of hostilities or the establishment and mainten-

ance of good order and government in or for the public safety of the Colony between certain dates.

"Now, my Lord, I submit that here again it had reference to the suppression of hostilities or the establishment of good order and government. It has to be shown that this was necessary.

"Secondly, my Lord, this Act which, I think, has been taken as a model for the Bill which is now before the Council points out that it is only acts done or committed during the existence of martial law which can be indemnified. The Bill in the Statement of Objects and Reasons does say that 'the object of the Bill is to indemnify officers of Government and other persons for acts done *bona fide* in the course of martial law during the recent disorders, and to provide for the continuance of the sentences passed by courts established under martial law.' Yet, the Council will see that the provisions of the Bill go far beyond it. Whether this was deliberate or unintentional, I cannot say, but the Council will see that the Bill says in clause 2 'No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government, whether civil or military, or against any other person acting under the orders of any such officer for or on account or in respect of any act, matter or thing ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order in any part of British India on or after the 30th of March 1919 and before the commencement of this Act.'

"Now, my Lord, martial law as we all know was proclaimed in Amritsar, and it came into force in Lahore on the midnight of the 15th or rather at 12 o'clock of the night between the 16th and the 17th. By what justification events which took place from the 13th March to the date on which martial law was proclaimed have been included in this draft of the Bill, I am unable to understand. Ordinarily such a Bill should be confined to the period during which martial law prevailed, but this Bill goes beyond that period, and the second terminus which it fixes is the commencement of this Act. I should like to know what justification there is for that either.

"My Lord, the second point to which I would refer is this. This Bill says that 'provided that such acts matters or

things were ordered or done in good faith in a reasonable belief that they were necessary for the said purpose.' This, my Lord, is very objectionable. All that you ought to provide for is, that action should be done in good faith and were in fact reasonable, necessary or expedient. You cannot say that if a man were to shoot his fellowman he has acted in a reasonable belief or in good faith. Now, is that man to be indemnified? In this matter I would draw attention to a few observations of Mr. Justice Chamberlain in one of the State trials which took place in 1799. It was the case, my Lord, of Wright *vs.* Fitzgerald. Wright brought a suit against Fitzgerald for assault and battery. He had been flogged by the order of Fitzgerald. 50 lashes had been given to him and in addition 50 more. Now, in disposing of that case, Mr. Justice Chamberlain proceeded to charge the jury as follows: —'His Lordship said that the jury were not to imagine that the legislature, by enabling Magistrates to justify under the Indemnity Bill, had released them from the feelings of humanity, or permitted them wantonly to exercise power, even though it were to put down rebellion. No; it expected that in all cases there should be a grave and serious examination into the conduct of the supposed criminal; and every act should show a mind intent to discover guilt, not to inflict torture. By examination or trial he did not mean that sort of examination and trial which they have been then engaged in, but such examination and trial, the best the nature of the case, and the existing circumstances would allow of.' That was what Mr. Justice Chamberlain said. He said that 'every man, whether Magistrate or not, was authorised to suppress rebellion, and was to be justified by that law for his acts, it is required, that he should not exceed the necessity which gave him the power; and that he should show in his justification, that he had used every possible means to ascertain the guilt which he had punished; and above all, no deviation from the common principles of humanity should appear in his conduct.'

"My Lord, the Legislature is asked at this moment . . . .

THE HON'BLE SIR GEORGE LOWNDES:—"Will the Hon'ble Member kindly give me the reference?"

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"It is State Trials, Vol. XXVII, 1820. Now,

my Lord, I submit that in these remarks of Mr. Justice Chamberlain, we get a great guidance for our work in which the Council is at present asked to engage itself. We are not a Court sitting here to consider whether a person charged for having committed any particular act during the recent disturbances should have a decree passed against him or should be exempted. The Legislature is sitting at present to lay down the principles and the provisions under which the case of such a man should be tried and considered, and, I submit, the remarks of Mr. Justice Chamberlain are therefore of peculiar help and guidance to us here.

"In the Bill what is provided is that—

'It is expedient to indemnify officers of Government and other persons in respect of acts, matters and things ordered or done or purporting to have been ordered or done for the purpose of maintaining or restoring order, provided that such acts, matters or things were ordered or done in good faith and in a reasonable belief that they were necessary for the said purposes.'

"Now, my Lord, my particular objection is to the expression 'in a reasonable belief.' I submit that would make it impossible for any plaintiff, ordinarily speaking, to succeed in any suit which he might institute against any individual who had wronged him. And that is particularly so when you look at section 2, for it says that no suit shall lie against any officer of Government who may have done certain things, 'provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purpose.' §

"Now, my Lord, I submit that the officer must not only show, even apart from the rules of evidence in section 3, to which I shall refer later, that he had not only done the act in good faith, but he should have done it with reasonable and proper care and consideration. In the words of Justice Chamberlain 'he should not have deviated from the common principles of humanity which should always appear in his conduct.' Now, I submit, my Lord, that the Bill goes much further than this and gives a protection which is not justified by previous enactments, or by considerations of reason and justice. In that case, my Lord, the charge was that Fitzgerald had been wrongly flogged. In this case we have many cases in which flogging was resorted to rather freely. In that

case, in concluding the judgment of the case, Lord Elverton, speaking of the defendant, for whom it had been pleaded that he had done many acts of loyalty, said: 'he had indeed manifested his loyalty most fully for he had manifested it in blood and written it in blood on the plaintiff's back.' My Lord, here too the backs of many persons bear evidence of the deeds that have been done, and they should be allowed to ask those who so injured them to prove that they had acted with reasonable care and caution in the interests of public peace and good order, and not deviating from the principles of humanity.

"My Lord, these provisions to which I have drawn attention become much more objectionable when you come to clause 3 which says:—

'For the purpose of section 2 a certificate of a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor unless the contrary is proved.'

"My Lord, what is given with one hand is taken away by this clause in section 3 of the proposed Bill, because if a certificate from a Secretary to Government that any act was done under the orders of an officer of Government shall be conclusive proof thereof, and all action taken for the aforesaid purposes shall be deemed to have been taken in good faith and in a reasonable belief that it was necessary therefor, I submit you are shutting out all chances of success for any plaintiff who may wish to have a suit instituted, to have an injury done to him investigated. You say, unless the contrary is proved, an action shall be deemed to have been taken in good faith and a reasonable belief that it was necessary. Let us assume—I may be doing an injustice to the gentleman, but I have him as an illustration—that Mr. Mani Lal, Barrister-at-law, instituted a suit, brings an action for compensation, for damage for the wrong done to him in his being confined in the manner in which he is confined, in a cell and otherwise, why should he be asked to prove that the person who caused him the injury acted without good faith and without a reasonable belief? Why should not the burden of proving that he acted in good faith and reasonable belief be cast upon the defendant? It ought to be sufficient for the purpose of

a fair trial of a character like that in any Court that the plaintiff should state before the Court on oath the facts of the case, and if the facts of the case did not show that he was either a criminal or had been condemned, or that he was guilty of any act for which he should be locked up, then it should be for the defendant to establish that the facts were such that he could not but act in the manner in which he did, and that therefore he should be excused for having so acted. It is a double wrong, my Lord, a double wrong to plaintiffs, to persons who are subjected to all these humiliations and wrongs, that they should be called upon to prove that those who oppressed them had acted without good faith and without reasonable belief. I submit, my Lord, this clause should be deleted, and it is only possible for anybody to think of having a chance of success if it should be deleted. Then, my Lord, in this connection I may say that to require the plaintiff to prove that he has acted in good faith and reasonable belief is entirely wrong. How can the plaintiff exercise an attribute of omniscience, how can he search into the heart of the defendant and show an intimacy with the motives of a stranger only known to him by his tyranny and oppression, and prove that the injury he received has been the consequence of malicious intention, a thing which it is impossible for him to prove, or that the act has been done in the suppression of rebellion. Motives can only be inferred from actions, and it is for the defendant to show that his motives were such as to justify his actions being excused. It will be entirely difficult for the plaintiff to prove things specially within the knowledge of the defendant. My Lord, I submit therefore that this portion of the Bill is open to grave objection, and that it takes away in one clause what it appears to give in another.

"Now, my Lord, there are other objections to which the Bill is open. I will go back to the preamble:—

'Whereas owing to the recent disorders in certain districts in the Punjab and in other parts of India, it has been necessary for the purpose of maintaining or restoring order to resort to martial law.'

"Now, my Lord, this would bring in other places. I do not know how this wide wording will affect acts done in Delhi, for instance, and in Calcutta. The object of the Bill should be clear and the language that is used should be modi-

fied in order to make it clear. I am not sure, as the preamble stands, whether it does not also cover places where no martial law was established.

"Then, my Lord, I come to clause 4, confirmation and continuance of martial law sentences. This Bill provides that:—

'Every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judical capacity, shall be deemed to have been lawfully confined. And, my Lord, it goes on to say: and shall continue liable to confinement until the expiration of such sentence, or until released by the Governor General in Council or otherwise discharged by lawful authority.'

"My Lord, I must say that this provision of the Bill has shocked me most. I think, my Lord, that the statement of the Hon'ble the Home Member made it clear that the Government of India are conscious that, unless an Indemnifying Bill of the nature now before the Council, that is to say, unless a legislative provision of the nature embodied in clause 4 is passed by this Legislative Council, the detention of men who have been sentenced by martial law courts will be illegal. I take it, my Lord, that that is the position. That being so, I submit it is wrong to these people that the help of the Legislature should be invoked, not for remitting or wiping off the convictions or sentences, but for confirming them and continuing them. My Lord, it seems to me that the Bill was not conceived with sufficient care and deliberation; that the various acts and provisions which were necessary were not fully considered at one time; and it seems to me that, if the model of even the Acts of South Africa had been kept fully before the mind of the Government, the Bill might have been drafted, might have been cast, in a different mould, might have consisted of different provisions. The Hon'ble the Home Member, and, I suppose, the Hon'ble the Law Member, perhaps on referring to the South Africa Act, Act IV of 1902 of the Cape of Good Hope, have noticed that there was a provision made for a revision of the sentences of those who had been convicted or sentenced by the martial law authorities. Now, my Lord, perhaps to make up for that omission, the Hon'ble the Home Member has to-day announced the decision of the Government of India that two Judges of the High Court will be appointed to revise

the sentences passed by summary courts. I welcome that announcement, but it only strengthens my suspicion that the matter was not considered in all its aspects when the Bill was drafted. Now, my Lord, I want to draw attention to the provisions of the Act of the Cape of Good Hope. May I ask the Hon'ble the Law Member for a copy of that Act, Act IV of 1902?"

THE HON'BLE SIR GEORGE LOWNDES:—"It might save the Hon'ble Member trouble if I were to inform him that that was not the Act which we took as a model at all, but the later Act of 1915, of which he does not appear to know."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"I thank the Hon'ble the Law Member. I did not know of the Act of 1915 or, at any rate, I did not remember it in the midst of the Statutes which were noted by my friends who have been working for me in this matter and helping me. But I am thankful to the Hon'ble the Law Member for informing me of it, and I shall feel thankful to him if he will let me have a copy of that Act also."

THE HON'BLE SIR GEORGE LOWNDES:—"Certainly, after the Hon'ble Member has finished."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My friend, the Law Member, need not be so afraid of letting me look at the Act before I finish; I might find some help from it. However, I shall be content for such courtesy as he thinks fit to extend to me.

"Now, my Lord, this Act, Act IV of 1902, contains a very important provision regarding the confirmation of sentences passed by military courts. I beg to draw your Lordship's attention and the attention of the Council to this section, which runs as follows:—

'The several sentences pronounced by Courts-Martial constituted and convened by proper authority, and holden in districts of this Colony in which martial law was proclaimed or imposed, and during the existence thereof, upon persons not ordinarily subject to Military Law tried by such Courts for acts of high treason, murder, or for all or any other crimes or offences whatsoever, or for all or any contraventions of any Regulations expressed or purporting to be issued under martial law and commonly termed Martial Law Regulations are hereby confirmed: and all such persons confined in any prisons or other legal places of confine-

ment within the Colony under by virtue of such sentences shall be deemed to have been and to be legally confined there, and shall continue to be so confined, there or elsewhere, as the Governor may direct, until the expiration of the sentences respectively passed upon them or until they are discharged by lawful authority, and such sentences shall be deemed to be sentences duly passed by duly and legally constituted Courts of this Colony and shall subject in each and every case to the provisions of the ninth and tenth sections hereof be carried out or otherwise dealt with, in the same manner, and sentences of such Military Courts as aforesaid shall be followed by the same disabilities, if any, as sentences of the Courts of this Colony.'

"The second part of this goes on to say:—

'Each and all of the officers of the prisons or other legal places of confinement mentioned in the preceding sub-section who have, or had at any time in good faith received into, or kept in confinement any of the persons mentioned in the said preceding sub-section shall be deemed for all purposes to have acted legally.'

"And the third part is also important. It went on to say:—

'All persons in this Colony who have been deported without the limits thereof under and by virtue of any of the foregoing sentences referred to in the preceding sub-section shall be deemed to have been and to be legally deported without the limits of this Colony, and such acts or cases of deportation as aforesaid shall be deemed to be among, and shall be included under the acts, matters and things referred to in the second section of this Act.'

"Now, my Lord, the object of this, I submit, was to legalise the sentences which had been passed no doubt, but there was the important fact that there was a war waged against the Queen, I think it was then. Secondly, my Lord, it was to confirm the sentences, particularly in the case of persons not ordinarily subject to military law tried by such courts for acts of treason, murder or for other crimes or offences or for any contraventions of any Regulations expressed or purporting to be issued under martial law and commonly termed Martial Law Regulations. Now, my Lord, this provision was made and the object was that the punishments which had been inflicted should be regarded as legal and that a suit should not lie against persons because they had confined these men in imprisonment or deported them. Your Lordship will have noted that in section 2 jailors are indemnified, in part 3 certain acts are validated, and, therefore, I

submit, the object was more to legalise the acts which had been done and the punishments which had been suffered and which might be suffered as a matter of necessity until they were remedied later on. And this was accompanied, my Lord, by a very salutary provision, because your Lordship will be pleased to note that while this General Indemnity Act was passed on the 15th September, 1902, there was a Commission appointed at the same time, dated the 2nd of August, 1902. Edward VII, by the Grace of God of the United Kingdom of Great Britain and Ireland, appointed a Commission. That was in the first schedule of the Bill. It was not an extraneous announcement by the Hon'ble the Home Member that the Government of India would be pleased to appoint two High Court Judges—and here I may say that the public have come, my Lord, not to have the same confidence in High Courts after the troubles in the Punjab—to revise sentences passed by summary Courts. My Lord, this ought to be a part of the Bill so that the public might know that there is sufficient and adequate provision made for a revision of those sentences.

"The first Schedule, my Lord, sets out the Commission passed under the Royal Sign Manual and Signet appointing the Right Hon'ble Baron Alverstone, Sir John Charles Bigham and Major-General Sir John Charles Ardagh, to be Commissioners to inquire into the sentences imposed by the military courts established under martial law in the South African Colonies and Protectorates and appointing Gilbert Mellor, Esq., to be Secretary to the Commission. Your Lordship will see that the Lord Chief Justice of England was the President of the Commission and Justice Bigham 'one of the justices of our High Court of justice' was a member and also General Sir John Charles Ardagh, K.C.I.E., was a member. Now, I draw attention to certain provisions of this Schedule. It runs:—

'WHEREAS in consequence of the war declared by the late governments of the South African Republic and Orange Free State against Her late Majesty Queen Victoria, it became necessary to proclaim martial law in our colonies and protectorates in South Africa; and whereas certain persons have been by military courts established under martial law in the said colonies and protectorates sentenced to terms of penal servitude and of imprisonment and to the payment of fines and are now undergoing the said sentences and have not paid but are liable to pay the said fines;

'AND WHEREAS the aforesaid war having now ceased it is expedient that

inquiry should be made with regard to the aforesaid sentences with a view to ascertaining whether we might properly and without danger to the public safety of our said colonies and protectorates extend our grace and mercy to any of such persons and where such sentences and any and which of them might properly be by us remitted or reduced.

'Now, know ye that we considering the premises and reposing great trust and confidence in your fidelity and discretion and integrity, do authorise and appoint you the said . . . . (three persons) to be our Commissioners to inquire into the said sentences imposed by military courts established under martial law in our colonies and protectorates and with as little delay as possible to report to us in writing under your hands and seals respectively whether in the case of the said persons and of which of them respectively who shall be at the date of your report then undergoing any such sentence or who shall not have paid but shall then be liable to pay any such fines, it is expedient, having regard to all the circumstances relating thereto, that such sentences of fines should be remitted or reduced.'

"Now, my Lord, your Lordship will please note the expression 'and to report with as little delays as possible.' That, my Lord, was incorporated as part of the Bill. I shall feel grateful to the Hon'ble the Law Member if he will kindly give me Act VI of 1900 also . . . . . .

THE HON'BLE SIR GEORGE LOWNDES:—"I was in hopes, my Lord, that I had not got it, but I have."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"Now, my Lord, there is an important provision in this Act of 1900, to which I invite the attention of Council and the Government. My Lord, the whole attitude of the Government as disclosed in the case of these two enactments and as disclosed by the Bill presented to this Council shows, I am sorry to say, a regretable difference. Now, my Lord, in the case of this Act of 1900 (VI of 1900), there was a provision to confirm sentences, merely to legalise, as I have pointed out already, what has been done. This is what it says:—

'All actions, indictments and legal proceedings whatsoever which might be brought or instituted in any of the courts of this colony against His Excellency the Governor of the Cape of Good Hope or the officer for the time being in command of His Majesty's Forces in this colony or against any person or persons acting under them or either of them respectively, in any command or capacity, civil or military, for or on account or in respect of any acts, matters, and things whatsoever in good faith advised,

commanded, ordered, directed or done as necessary for the suppression of hostilities in or the maintenance of good order and government or for the public safety of this colony between the date of the commencement of a state of war between Her Majesty's Government and the Governments of the South African Republic and the Orange Free State and the date of the taking effect of this Act, shall be discharged and become and be made void.'

"Then, my Lord, it is said in section 5:—

'In all cases of convictions for high treason or other crimes of a political character during the period specified in section 1 of this Act, where such convictions have taken place before courts-martial or military courts constituted, convened and held as in the last preceding section set forth or where they have taken place before the ordinary criminal courts having jurisdiction over them, it shall be lawful for the Governor, should he consider that any such case would, had it been dealt with after the taking effect of this Act, have been a case proper for the consideration of the Commissioners appointed under section 33 hereof, to order that the said sentences imposed upon such persons shall be altered into the sentence laid down in section 50 of this Act. The person affected by any such sentence shall thereupon become liable to suffer the penalty imposed by the said fiftieth section and no other.'

"That is to say a sentence under section 50 has been substituted for the one already imposed. Section 50 says:—

'The said Commissioners shall, after hearing the evidence, if any, for and against the accused decide whether he is guilty or not of the charge brought against him, and in all cases in which an accused person shall be found guilty, the said Commissioners shall adjudge that he shall be, for the period of five years and no longer, disqualified from being registered as a voter or from voting for the election of members of Parliament, or of a Divisional or Municipal Council, or of a Village Management Board or from being or continuing to be a member of Parliament, or from holding any public office, or continuing upon the Commission of the Peace or from serving upon a Jury in civil or criminal cases, anything contained in any Law or Act of Parliament to the contrary notwithstanding; and thereupon such person shall be in Law absolutely disqualified, in regard to all the aforementioned matters and his name, if upon any existing voters' list, shall be and is hereby removed therefrom, and vote of any such person given at any such election shall be null and void and may be struck out in any proceeding in which the result of such election is challenged in any competent court. Save as hereinafter provided the findings or decisions of the said Commissioners shall not be subject to appeal to or review by any Court whatever.'

"Now, my Lord, you will see what an important difference

of outlook and aim these provisions of the indemnifying Acts to which I am referring show as compared with the provisions of this Bill. My Lord, these Commissions were appointed as part of the Bill, and they were given power to wipe off all other sentences and to substitute a municipal disqualification. It was not in ordinary trifling cases, cases of not salaaming a European, but it was in cases of high treason and in all cases of convictions for high treason or for other crimes of a political character during the period specified in section 1 of that Act.

"The other day, my Lord, I brought forward a Resolution and urged that the Government might consider the advisability of the Committee of Inquiry (or the commission which I suggested) being empowered where they thought fit to recommend to His Majesty's Privy Council that convictions by Martial Law Commissions and Martial Law Summary Courts might be annulled or modified. My Lord, this Act to which I make reference shows further reason in support of my proposition. It is said by the Hon'ble the Home Member that the Government of India are going to appoint two High Court Judges to revise these sentences. My Lord, the Government of India cannot constitute a court. The Government of India cannot constitute a regular court. The Governor General can no doubt introduce martial law and constitute certain courts under martial law, but the Government of India cannot constitute a regular court.

"If these two High Court Judges are to revise the sentences that will not be court. They will only be advisers, very honourable advisers of the Government of India in respect of the cases which the Government of India may deal with. I submit with confidence, notwithstanding what the Hon'ble the Law Member may say to the contrary on this point, that the Government of India cannot by appointing two High Court Judges to revise sentences passed by martial law invest them with the authority of a legal court . . . . . .

THE HON'BLE SIR WILLIAM VINCENT:—"I never suggested anything of the kind."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"I thank the Hon'ble the Home Member for removing my doubts on the point. I should like to know what will

be the position of the two Judges. I should feel grateful to the Hon'ble the Home Member if he will make the point clear, it will save time. In do not know if they are merely to advise, whether their opinions will be merely recommendations to be considered by the executive Government, or whether they will have power to deal with sentences, wipe out convictions, reduce sentences or whether else they would like to do. I should be very grateful if the Hon'ble the Home Member will enlighten me on that point."

At this point the Hon'ble Mr. Malaviya resumed his seat.

THE PRESIDENT:—"The Hon'ble Member will proceed with his speech."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I take it, in the absence of any explanation from the Hon'ble the Home Member that the matter is left vague. I submit that in the absence of further information these two Judges will be merely advisers to the Government. I submit that that will not be a satisfactory position. Next, I should like the Government to consider the propriety of including in the terms of reference some direction such as that contained in Act VI of 1902 of the Cape of Good Hope. By this time, in view of what has happened and that has not been contradicted or controverted, it is time for the Government of India to make up its mind to release these persons who are undergoing imprisonment from further humiliations and hardships. I submit that this is a suitable moment for the Government to consider this matter. If the Bill proceeds as it is, then, I submit, the position will be this. We do not know how long these High Court Judges may take to deal with the cases of these men, the procedure has not been indicated, and therefore no one can form any idea of the time and therefore 'every person confined under and by virtue of any sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully confined and shall continue liable to confinement under the expiration of such sentence or until released by the Governor General in Council or otherwise discharged by lawful authority.' I submit that that is not a satisfactory position, particularly in view of the remarks which the Hon'ble the Law Member made. He said he had consulted the Government of

the Punjab, and it was of opinion that it would be dangerous to let off any of the men who were undergoing imprisonment at present and who were under sentence passed by martial law. I suggest that if it should be pointed out to His Honour the Lieutenant-Governor of the Punjab that if there are persons who are considered dangerous, there are provisions under the existing enactments by which they can be taken up and judicially proceeded against and confined. There are many provisions under the existing enactments which enable the executive Government or any Government to proceed against persons of doubtful character or dangerous and bind them over to keep the peace and to be of good behaviour. It is open to the Government to have them tried in the regular courts in the ordinary way. Great complaints have been made that these convictions and sentences are illegal. The Hon'ble the Home Member has practically admitted the truth of this contention and ,unless some provisions such as I am referring to is enacted, these unhappy men will continue in jail. That being the position I submit that there should be some provision by which these men should at an early date be set free to enjoy the liberty to which they are entitled, and if they are not entitled to that liberty by a reason of any act of wrong doing the ordinary courts of the law should be allowed to deal with them. I need hardly draw attention to the remarks of Lord Halsbury, but it is my duty to refer to certain information which has been printed and reproduced in an excellent volume by Sheikh Nabi Bakhsh, a Vakil of the Punjab High Court. Your Lordship and the Council have noted what Lord Halsbury states in the 'Laws of England' that the powers of the military authorities cease, and those of the civil courts are resumed *ipso facto* on the termination of disorder. Disorder terminated long long ago and martial law was also discontinued partly in May and partly in June, and finally last month. I think it was about the 25th or 28th of August. Therefore the course I am suggesting is the right course to be pursued; let there be such a provision enacted as that to which I have drawn attention, unless it be a case of murder or arson; let the men be proceeded against in the ordinary way. They have the right to choose in the matter and some may not choose that course. This question of martial law has been very carefully explained in various

places. For instance, Justice Sir James Fitz James Stephen, a Judge of the High Court of the Queen's Bench Division, in his book the History of Criminal Law of England, says. I will read only his summing up to save time. He says, "I will sum up . . . . . .

THE PRESIDENT:—"I understand it is your summing up also."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"No my Lord, I am reading the summing up of Sir James Fitz James Stephen."

THE PRESIDENT:—"All right, proceed."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"He says:—

'I may sum up my view of martial law in general in the following propositions. Martial law is the assumption by officers of the Crown of absolute power exercised by military force for the suppression of an insurrection and the restoration of order and lawful authority. The Officers of the Crown are justified in any exertion of physical force extending to the destruction of life and property to any extent and in any manner that may be required for the purpose. They are not justified in the use of the cruel and excessive means but are liable civilly or criminally for such excess. They are not justified in inflicting punishment after resistance is suppressed, and after the ordinary courts of justice can be re-opened.'

The principle by which their responsibility is measured is well expressed in the case of Wright *versus* Fitzgerald. Wright was a French Master at the schools in Clonmell who after the suppression of the Irish rebellion in 1799 . . . . . .

THE PRESIDENT:—"The Hon'ble Member really must not repeat himself. We have already had the case of Wright *versus* Fitzgerland for half an hour."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I am quoting the summary of Sir James Fitz James Stephen . . . . . .

THE PRESIDENT:—"I am quite aware of that. But we have all heard the case of Wright *versus* Fitzgerald for half an hour this afternoon, and I do not propose that we should hear it again."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"Very well, my Lord. Then Sir James Fitz James Stephen proceeds to say:—

'The Courts-martial as they are called, by which martial law in this

sense of the word is administered, are not properly speaking, Courts-Martial or courts at all. They are merely committees formed for the purpose of carrying into execution the discretionary power assumed by the Government. On the one hand, they are not obliged to proceed in the manner pointed out by the Mutiny Act and the Articles of War. On the other hand, if they do so proceed they are not protected by them as the member of a real court-martial might be except so far as such proceedings are evidence of good faith. They are justified in doing, with any forms and in any manner whatever is necessary to suppress insurrection, and to restore peace and the authority of the law. They are personally liable for any acts which they may commit in excess of that power, even if they act in strict accordance with the Mutiny Act and the Articles of War.'

"Therefore, my Lord, after the resistance has been suppressed the ordinary courts of justice can be re-opened and cases of persons who cannot be released entirely might well be referred to such courts. I will refer to one other opinion, namely, that of Mr. Justice Spankie. Writing on this subject,—this is a written opinion, dated the 27th April, 1818:—

'The manifest intention of Government in its legislative capacity was, that none but cases of the simplest and most obviously criminal nature should be the subject of trial by the courts-martial; the fact, whether a person was taken in the actual commission of an overt act of rebellion, or taken in the act of openly aiding and abetting the enemies of the state or taken in open hostility, might safely be tried by such courts; and such a provision for trial was calculated to prevent military severity in the field becoming absolute massacre. But all complex cases depending upon circumstantial proof and requiring either a long examination of facts or a discriminating inference from facts in themselves equivocal were purposely withdrawn from the cognizance of these tribunals. It never was intended that courts-martial should try, as those have done, acts even of criminal nature, in which the prisoner was not taken and unless the acts were open overt acts and of the most material palpable quality.'

In another portion he says 'that the moment the order is ceased the ordinary jurisdiction of the courts can be resumed.' Now, my Lord, I submit that the provisions of the Bill as they stand are unsatisfactory, and leave should not be given to introduce the Bill in its present form. Now, if the Bill is not introduced, my Lord, in its present form, as I have said before, not much harm will be done, and the Government will be in a position to deal with the matter after the report of the Committee of Inquiry. I wish, my Lord, to point out the grave injustice and disadvantage which is likely to result

if the Bill is passed at present. Of course it is in the power of your Excellency's Government to pass the Bill. We know it. We have had recent experiences to convince us of it. You do command a large official majority in this Council. The representatives of the people are few. But I submit, my Lord, in this matter it would be right and proper that your Excellency's Government should consider what the public opinion of the country is. Shall we stop now?"

THE PRESIDENT:—"Is the Hon'ble Member concluding his speech.

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I should like to conclude to-morrow."

THE PRESIDENT:—"The Council will now adjourn till 11 o'clock to-morrow. We shall sit from 11 to half-past 1, and we shall sit again from 3 until we finish."

19 Sep. '19.

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I would like to draw attention to two other matters relating to the Bill which are to my mind of great importance. One is that clause 6, the savings clause, says:—

'Nothing in this Act shall prevent the institution of proceedings by or on behalf of the Government against any person in respect of any matter whatsoever.'

This no doubt reserves to the Government the right of instituting any proceedings by or on behalf of the Government against any person. But, except for this, the right of private individuals to bring any suit or to institute any legal proceedings against any individual are restricted by the provisions of clauses 2 and 3. Now, my Lord, I have already submitted that clause 2 of the Bill bars a suit and says:—

'No suit or other legal proceeding whatsoever, whether civil or criminal, shall lie in any court of law against any officer of Government; * * * * provided that such officer or person has acted in good faith and in a reasonable belief that his action was necessary for the said purposes.'

"And then comes clause 3 which says:—

'For the purposes of section 2 a certificate of a Secretary to Government that any act was done by the orders of any officer of Government shall be conclusive proof thereof, etc., unless the contrary is proved.'

"Now, my Lord, the result of these two clauses taken together is, as I submit, practically to make the chance of success for any private individual very very small, and I submit this is not right. I want to illustrate how very unjustly the provisions of this Bill will operate to make it difficult for any individual who may have been injured to obtain justice. I would like to draw attention to one concrete case which occurred at Amritsar. That case is the case of Mr. Gurdial Singh Salariya, Barrister-at-law. This gentleman was in the District Court along with several others on the 10th of April, 1919, when he heard that there had been firing resorted to and that there was trouble owing to the deportations. He and other pleader friends consulted together and resolved to inform the Deputy Commissioner that they thought they might go and help, and, with his consent, went to try and quiet the trouble. They did go there, and this gentleman and his friends who were with him laboured for a long while to quell the mob and to turn them back. He succeeded also to a large extent in sending back part of the mob from the railway overbridge, and, in order that he might do his work better, obtained the loan of a horse from a policeman with the help of the Deputy Commissioner and rode about appealing to people to go back. While he was doing this, the military fired upon the mob. There was a crowd near the overbridge; he found the military ready to fire and he shouted out at the top of his voice to stop. He requested the Deputy Commissioner to give him some time to persuade the crowd to go back, and, while he was doing so, they began to fire all at once without warning this gentleman that they were going to fire. Luckily, he escaped. The Deputy Commissioner in his statement before one of the Martial Law Commissions said that this gentleman, Mr. Gurdial Singh, 'went with his permission to push back the mob and that he was genuinely trying to do so.' He further says that 'owing to a dangerous rush of the crowd, it was necessary to fire, while Gurdial Singh was trying to keep them back, and that he had been pointed out to the soldiers as a friend.

He ran serious risk of being shot and deserves credit for having tried to quell the mob in a brave and determined manner.' This was the statement made by the Deputy Commissioner of Amritsar in the case when Mr. Gurdial Singh was tried. Now, my Lord, having done this, this gentleman went home. This was on the 10th of April. On the 23rd of May a policeman, a constable in white clothes, went to him in court and asked him to accompany him to the Kotwali, where he was wanted by the police. He went there and was placed before the Deputy Superintendent, I think. He was asked a few questions and was politely told that he was to go to jail where he was to be confined. Now, my Lord, this gentleman was kept in Amritsar for two days or so and then he was removed, handcuffed, to Lahore. On the morning of May, the 26th, he was made to walk on foot from the railway station at Lahore to Montgomery Hall, was kept there the whole day sitting on the ground. Then, my Lord, he was removed to the Central Jail and was put in an iron cage, seven feet by $2\frac{1}{2}$, although his guardian had paid Rs. 30 in order that he might be put in another place. Now, my Lord, he was removed the next morning to that other place. He was not long there and was sent on to another jail. This gentleman was arrested on the 23rd, was put on his trial on the charge of having taken part on the 5th April, 1919, to bring about *hartal* on the 6th. It was proved that he was lying ill at home on that day by the evidence of a surgeon, I think a civil surgeon. The second charge was that he was a speaker at the meeting of the 6th April, the great *Satyagraha* day meeting. He did admit that he did take part, and all glory to him for having taken part in that meeting. The third charge against him was that he had incited the mob at the railway bridge on the 10th April, when he had at the risk of his life tried to send back the mob to the city, and further that he had on horseback gone down to the city and delivered an inflammable speech. Now, my Lord, the Deputy Commissioner was examined and he deposed to the fact that this gentleman had honestly endeavoured at the risk of his life to quell the mob, and to send them back to the city. The question put to the Deputy Commissioner was 'Do you know as a fact that Gurdial Singh Salariya did his best to keep the mob back on the 10th April 1919?' The answer was 'Yes, this

is the only conclusion to be drawn from the action I saw. Then the question was 'Did you actually see him shouting and entreating the mob on the carriage bridge to disperse?' and the answer was 'Yes, I remember him distinctly as he swarmed up a lamp post to addrees the crowd better.' Then he was asked 'Did his attitude and efforts against the mob appear to you genuine?' The answer was 'Yes, I certainly think they were genuine.' Then again 'Was Gurdial Singh in danger of being shot when he was roaming about facing the mob and telling them to get back and thus did real service?' The answer was 'Yes, owing to the dangerous rush of the crowd it was necessary to fire while he was trying to keep them back and though he had been pointed out to the soldiers as a friend he ran serious danger of being shot. He deserves credit for having tried to keep the crowd back in a brave and determined manner.' Now, my Lord, this gentleman was put on his trial and kept in jail from the 23rd May for nearly a month and a half. He was subjected to all these indignities and to all the humiliation and trouble of being kept there. In the judgment in his case the Martial Law Commission said: This accused was present at the meeting of the 6th April. (That of course was a crime in the eye of the Commission.) But we are not satisfied that he had joined the conspiracy. His actions on the 10th April as deposed to by the Deputy Commissioner indicate that he was supporting the authorities to the best of his powers and at some risk to himself. Hans Raj (the approver) does not attribute any acts to him, merely saying that Gurdial Singh had told Bashir that he had done what he could on the 10th. Mr. Herbert (the Crown Advocate) did not press the case against him and we acquit him.' Now, my Lord, I should like to ask what would be the position of Mr. Gurdial Singh if he was to seek some compensation, some remedy for the gross, unjustifiable wrong done to him. Here is a man who at the risk of his life rendered service to the Government and the public at the time of the disorder, while the Deputy Commissioner and the Police Superintendent who saw him work at the railway bridge were still in Amritsar, this gentleman was arrested and *challanned* in a humiliating manner and kept in jail for a period of a month and a half, had to undergo all the anxiety, trouble and indignity and humiliation of ar-

ranging for his defence and had to be acquitted after all. Is he, if this proposed Bill is passed, to be defeated in a suit, unless he can swear that there was in the minds of his assailants and persecutors a malicious intent? Or is it right that he should be able to go into the Court, state the facts and ask his persecutors to plead whatever excuse or justification they may have to plead? Which will be the right course? Which will be the fair procedure? I submit, there can be only one answer. The man has been obviously unanswerably wronged. You want by this Bill to shut him out from having a chance of success in a suit for damages, by the provisions you seek to incorporate in this Bill. He goes with his suit or plaint into the Court, and the answer is that no suit will lie unless it is proved by the plaintiff that the defendant had not acted in good faith and in a reasonable belief that the steps that had been taken against him were necessary for the purposes of maintaining or restoring order. I submit, my Lord, I cannot imagine a grosser perversion of what should be the right procedure than what is incorporated in this Bill. I have drawn attention to this case for two reasons, first, that the provisions of clauses 2 and 3 are entirely unjust and ought to be entirely deleted, I mean so far as the proviso to clause 2 is concerned and so far as the new rule of evidence incorporated in clause 3 is concerned. I would also refer to it to show that though clause 6 of the Bill gives to Government the power to proceed against any person against whom they may think it fit to, the case of private individuals who may wish to proceed against those who have arrested or harassed or subjected them to oppression, is not taken sufficient care of. My Lord, it may be said that the Bill provides that the Government can proceed against any person in respect of any matter, and that it will be only reasonable to expect that in a case like the one that I have mentioned the Law Member of the Government would advise, and the Home Member would advise the Government of India to institute a suit to find out who were the persons who were responsible for all the humiliation and indignity and suffering inflicted upon Mr. Gurdial Singh and commit them to trial. That should ordinarily be the case, my Lord; but unfortunately in the circumstances of the situation, it is not given to private individuals who have suffered to expect, to have a reasonable ex-

pectation, that such a course would be pursued. I regret to say it, but it is a fact which I ought to mention that, while I have heard much indignation expressed at the acts of lawlessness that were committed by some sections of the mob, I have not heard one word of sympathy from the Government benches with those who have lost their lives, their relations or the other sufferers in consequence of these troubles, except my European fellow-subjects for whom I share the sympathy with members of the Government. My Lord, it has been a sad thing for me to reflect that while such outrageous events have happened, while the casualties have been ascertained to the extent that has been done, there should not have been one word of sympathy, expressed on behalf of Government with these men who have suffered . . . . . .

THE HON'BLE SIR WILLIAM VINCENT:—"May I offer a word of explanation? I said quite definitely in this Council that no one deplored the loss of life more than I did. It is unfair to say that I did not express any sympathy with those who suffered."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"My Lord, I take it, I will accept it, that the Hon'ble Member did mean to express sympathy with Indians . . . . . .

THE HON'BLE SIR WILLIAM VINCENT:—"Not only mean to, but I did do it."

THE HON'BLE PANDIT MADAN MOHAN MALAVIYA:—"I am glad to be assured, my Lord, that the Hon'ble Member did express sympathy with Indians as well as Europeans who had suffered. But I still expected a more sympathetic attitude on the part of Government in order to give an assurance to the public that if there are any cases in which these facts are found to exist, if the wrongs done cannot be justified, that the Government will itself proceed to bring the offenders, the wrong-doers, the oppressors of His Majesty's subjects to trial. This brings me to one other aspect of the question, and that is the question of compensation for the damage sustained. In the Cape of Good Hope Act, VI of 1900, there is a whole chapter devoted to the provision for compensation for damage sustained from military operations. Now, what does clause 5 of the Bill before us provide. It says—"Where under martial law the property of any person has been taken or

used by any officer of Government, whether civil or military, the Governor General in Council shall pay to such person reasonable compensation for any loss immediately attributable to such taking or using to be assessed upon failure of agreement by a person holding judicial office not inferior to that of a District Judge to be appointed by Government in this behalf.' My Lord, the Bill confines itself to loss of compensation for property used for military purposes. But what about the lives that have been lost in military operations? Lives that are much more valuable than any property lost. I submit that the proper course would be to incorporate in this Bill a provision to the effect that the Committee which is to be constituted under this Act should have power to decide what compensation should be given to those who have suffered loss of life or limb, for many have suffered in limb, as well as those who have suffered loss of property. In this respect the Bill is defective, and for this reason also I submit that the Government should reconsider the situation. The Council will have noted that my proposal is not that no Indemnity Bill should be introduced and passed, but that such a Bill should not be introduced at present, that it should be kept back until the Committee of inquiry has reported. I would point out in this connection that this is not such a wide suggestion as it may seem to some people. After the dark days of the Mutiny the Government was in no hurry to pass an Indemnity Act. The Indemnity Act was passed in the year 1860; it received the assent of the Government of India on the 2nd August 1860; that is two years after the mutiny had been suppressed. I submit, my Lord, that the Government would not be unwise, and that no interests would be jeopardised if the Government do not proceed with the Bill at present. I am strengthened in urging this before Council by the reports which I have received, both telegrams and letters have been coming from different places expressing the deep sense of dissatisfaction among the general Indian public at the Government proceeding with this Indemnity Bill. I will first read a telegram I have received from Lahore. It runs—'Members of the Indian Association, Lahore, respectfully enter their emphatic protest against the statement made by the Hon'ble Malik Umar Hyat Khan at the recent meeting of the Imperial Legislative Council that

the people of the Punjab do not want a Commission of Inquiry into the happenings of April last. As a matter of fact, the entire province demands a searching investigation by an Imperial Commission, unconnected with the administration of the country; the fact is that public meetings of protest cannot be held owing to Ordinances and official orders should not be misconstrued. They wish further to give expression to strongly felt public opinion of the Punjab that passing of the proposed Bill at the present stage will not only be premature but also prejudicial to the conduct of proper inquiry. There will be ample time for enactment of a law for the protection of officials after the Commission of Inquiry has pronounced its verdict as to the necessity of a declaration of martial law and suggestions of measures and methods adopted in its working. The Punjab Association feel in any case that there is absolutely no necessity for validating sentences illegally passed by Martial Law Commission and officers. They pray that the Government will be pleased to abandon the Bill at present.' This is one of several telegrams received. I also wish to show how the public have expressed themselves. Sir Narayan Chandarvakar, Vice-President of the National Liberal Association, cabled to the Secretary of State and to your Excellency a few days ago praying among other things that the Indemnity Bill at the present stage should be abandoned, as its necessity depends on the result of inquiry by the already appointed Commission. Then again, my Lord, 'Ditcher' in 'Capital' has said that it is obvious that the passing of the Indemnity Act and the findings of the Committee will be purely academic. The 'Daily News' of London has observed in referring to the proposed Commission that 'the provision for a complete whitewashing of the official policy of the Punjab is made doubly certain by the resolve to protect officials by the Act of Indemnity before the inquiry is entered on. This policy, for which there is no defence, recalls the direct action taken after the Ceylon disturbances in the first year of the war. By such un-British tactics the British name is besmirched.' The Indian papers have almost without exception written strongly against the policy of proceeding with this Bill before the Committee has made its report. There is hardly time for me to refer to the opinions of the 'Leader,' the 'Bombay Chronicle,' the 'Nation,' the 'Bengalee' and

other papers. But what, I think, is better is to invite attention to a very valuable article from the pen of Sir Narayan Chandarvakar which has been published in the 'Indian Social Reformer.' The other day the Hon'ble the Home Member relied upon a letter published by an anonymous 'Indian student of constitutional law' for support of his view in introducing this Indemnity Bill. I was rather taken aback; it seemed to me to be a great fall for the Hon'ble the Home Member of the Government of India to refer to an anonymous writer for support of the policy decided upon by the Government of India. However, that is the concern of the Hon'ble the Home Member. I now present as a contrast a very valuable contribution to the discussion of this Bill, the opinion of a gentleman who has acted for years as an honoured Judge of the Bombay High Court, officiated as Chief Justice for some time and was also Chief Justice in Indore for several years. On important occasions he has laid the Government of India under an obligation by expressing well considered opinions on constitutional questions. Writing in the 'Indian Social Reformer,' Sir Narayan Chandarvarkar writes: 'Surprise is expressed in some quarters that Indian politicians of all shades of opinion have opposed the decision of the Government of India in introducing an Indemnity Act in the Imperial Legislative Council at the earliest convenient moment for indemnifying all the officers in respect of their acts in connection with the recent disturbances.' Then he cites the authority of Mr. Dicey in support of the principle which is enunciated in Mr. Dicey's book, called 'A leap in the dark.' My Lord, I may mention that this book—'A leap in the dark'—was published in 1893. The purport was to examine the leading principles of the Irish Home Rule Bill which was introduced in that year in Parliament. In Mr. Dicey's opinion one of the most important defects of that Bill was, that its provisions relating to the restrictions on and safeguards against the legislative power of the contemplated Irish Parliament contain no prohibition against the passing of an Act of Indemnity by the Parliament. Mr. Dicey said:—

'Of all the laws which a legislature can pass an Act of Indemnity is the most likely to produce injustice. It is on the face of it the legislation of illegality, the hope of it encourages acts of vigour, but it also encourages violations of law and of humanity. The tale of flogging Fitzgerland in

Ireland, or the history of Governor Eyre in Jamaica, is sufficient to remind us of the deeds of lawlessness and cruelty which in a period of civil conflict may be inspired by recklessness or panic and may be pardoned by the retrospective sympathy or partizanship of a terror-stricken or vindictive Legislature.

Further on he writes: —

'An *ex post facto* is the instrument which a legislature is most apt to use for punishing the unpopular use of legal rights. There is not a landlord, there is not magistrate, there is not a constable in Ireland who may not tremble in fear of *ex post* facto legislation. There is no reason as far as the Home Rule Bill goes, why the goaler who kept Mr. William O'Brien in prison or the warders who attempted to pull off his breeches, should not be rendered legally liable to punishment for their offences against the unwritten law of Irish sedition. No such monstrocity of legal inequity will, it may be said, be produced. I admit this, but the very object of prohibitions' (against the passing of *an ex post facto* law) 'is the prevention of outrageous injustice. The wise founders of the United States prohibited to Congress and to every State legislature, the passing of *ex post facto* legislation.'

"Now, my Lord, going further and dealing with the particular Home Rule Bill and commenting upon the absence from it of a prohibition against the passing of an Indemnifying Act, Mr. Dicey says that it was necessary that there should be a prohibition. He says:—

'Circumstances no doubt may arise in Ireland, as in other countries, under which the maintenance of order or the protection of life may excuse or require deviation from the strict rules of legality. But the question whether these circumstances have arisen will always be decided far more justly by the Parliament at Westminster than it can be decided by the Parliament at Dublin. Can anyone really maintain that a Parliament in which Mr. Healy, or, for that matter, Colonel Saunderson might be leader, would be as fair a tribunal as a Parliament under the guidance of Mr. Gladstone or Lord Salisbury for determining whether an officer, who, acting under the directions of the Irish Government and with a view to maintain order at Belfast or Dublin, should have put an agitator or conspirator to death without due trial had or had not done his duty.'

"Now, my Lord, as Sir Narayan Chandarvarkar says, substitute India for Ireland and substitute Simla for Dublin and so on, and it would appear that the passage applies very much to the proposal now before the Council. I submit that in view of these very weighty expressions of opinion, the Government would be wise in postponing action in this matter of an Indemnifying Bill. My Lord, it is open to the Govern-

ment, it is in the power of the Government, as I said yesterday, to pass the Bill by the official majority which it commands. But I would appeal to your Excellency that your Excellency may reconsider this question and not flout public opinion which has been so widely expressed in this matter. My Lord, it may be that the Government can carry on the administration of the country without paying heed to public opinion, but it is not the right thing to do. The right thing to do would be to act in accordance with all the principles for which the blood of Britons and of Indians was shed in the last great war, to do that which is right, to do that which truth, justice and honour demand, and in this matter truth, justice and honour demand that where so many deplorable acts have been committed, where so much illegality has been committed, where so many indignities have been offered, when there are such serious allegations regarding the action of His Majesty's officers, civil and military, when there are serious allegations regarding the attitude of the Government of India itself in the matter of the Punjab administration during the last few months, I submit, my Lord, the right thing to do would be to stay your hand and to let this matter lie over until the Committee of Inquiry has reported. When the Committee of Inquiry submits its report, I venture respectfully to say that the right course for the Government of India would be to submit that report to His Majesty's Government and ask them, in view of the facts which may then be established, to consider which acts of the officers of His Majesty's servants, civil or military, should be indemnified, and to also consider what compensation should be offered on behalf of the public, that is the Government, to those who have suffered unjustly during these disturbances and riots. I ask, my Lord, for an attitude of greater sympathy, an attitude of greater desire to do justice between man and man, between Indian and European, between one subject and another, not in any vindictive spirit, not in any revengeful spirit, but purely with a desire that justice should be done, and that right should be done. For these reasons, I most earnestly appeal to your Excellency and to your Excellency's Government to reconsider the matter and not proceed with this Bill. If this is done, my Lord, the whole country will feel grateful; in England and in India public opinion will feel that your Excellency's Gov-

ernment have at the last moment even recognised the force and weight of public opinion and bowed to it. My Lord, the mightiest Government has to bow to public opinion. It so happens that in this matter the public voice is not strong, but, I submit, we must always appeal in this mater to what we find in England, and I submit with great respect that no Government in England would have dared to bring forward a Bill of this character in the circumstances which have been disclosed in this debate, and I submit, my Lord, that the Government here, though it has the power, it ought not to exercise that power, and ought to wait until the Committee of Inquiry has reported. I make this appeal in the name of those who have lost their lives, in the name of those who lost their limbs in these recent disturbances, in the name of those who have suffered indescribable indignities, in the name of those who are undergoing imprisonment at this moment unjustly in His Majesty's jails, in the name of those women who are in mourning by the loss of their husbands, their relations, or sons, in the name of all those, my Lord, I appeal to your Excellency's Government to stay the hand of Government and to wait for the Committee of Inquiry, and then to decide what should be done. When the Committee of Inquiry has reported, the public can see what are the facts, and what is the right course to pursue in those circumstances. Every reasonable man in this Council will then offer his support to the measure that may then be proposed.

"My Lord, I submit this is what the situation demands. I hope that your Excellency's Government will not judge this matter merely by the opinions of a few members who have the privilege of sitting in this Council. I hope, in deciding this matter, your Excellency will have referred to the vast multitude of Indian opinion outside this Council and also to the opinion in England. If you decide having regard to that opinion, I have no doubt that your Excellency will come to only one conclusion, and that is, to postpone the introduction of this Bill till the Committee of Inquiry have reported."

APPENDIX.

Questions by the Hon. Pt. Malaviya.

Re Martial Law in the Punjab.

The Hon. Pt. Malaviya gave notice of the following questions which he intended to put at the Imp. Lagistative Council, Sep. 1919. They were however disullowed.

Arrests, Trials, Convictions.

I. Will the Government be pleased to lay on the table a statement showing :—

(*a*) The number of persons actually arrested and detained in custody in connection with the recent disturbances in the Punjab, classified according to town or village, and showing the names, parentage, caste, profession and place of residence of the persons arrested or detained.

(*b*) The number of persons out of the above list who were actually put on trial ;

(*i*) Before the Commissions constituted under the Martial Law Ordinance of 1919 promulgated by the Governor-General ;

(*ii*) Before the Summary Courts established under the orders of the General Officers Commanding the Lahore and Rawalpindi Divisions ;

(*iii*) Before the Area Officers constituted by or in virtue of the powers conferred by the General Officers Commanding the Lahore and Rawalpindi Divisions for offences against the Proclamation issued on the 19th April, 1919, (Notification No. 10,766 of Home Department Military, dated 21st April, 1919) ;

(*iv*) Before the ordinary Municipal Courts in districts where Martial Law was not declared ; and

(*v*) Before the Special Tribunal constituted under the Defence of India Act ;

(*c*) number of persons convicted out of those mentioned in clause (*b*) and the offence or offences of which they were convicted and the sentences passed in each case ;

(*d*) the number of persons discharged or acquitted out of these mentioned above in clause *b* ;

(*e*) the number of persons arrested but released.

II. Will the Government be pleased to lay on the table a statement giving the following particulars regarding all cases tried by the Summary Courts established by the General Officers Commanding the Lahore and Rawalpindi Divisions and also by the Area Officers appointed under Notification mentioned in Q. 1. (*b*) iii ;

(*a*) The total number of cases decided by each of the said courts and officers from day to day.

(*b*) The number of cases in which summaries or memoranda of evidence and reasons for findings arrived at were recorded ;

(*c*) the number of cases in which only reasons for findings arrived at were recorded, and

(*d*) the number of cases in which no summary or memorandum of evidence, nor any reasons for the findings arrived at, were recorded, and

(*e*) the number of cases in which the record does not show even the offence charged.

Application for Copies of Judgment.

III. Will the Government be pleased to lay on the table a statement showing

(*a*) the number of applications for copies of judgments and evidence and other proceedings of the Summary Courts and of the Courts of the Area Officers made on behalf of the persons convicted, to the Legal Remembrancer, the District Magistrates, Martial Law Administrators and other Civil or Military Authorities :

(*b*) the number of cases in which copies have been supplied ;

(*c*) The number of cases in which such copies have been refused and reasons for such refusal.

Flogging.

IV. Will the Government be pleased to lay on the table a statement showing :

(*a*) the number of persons flogged in each town or village within the Martial Law Area in the Punjab whether

(1) Under Martial Law

(i) on conviction, or

(ii) without conviction.

Or

(2) under the ordinary Criminal Law during the period Martial Law was in force, giving names, parentage, age, caste, profession and residence of the persons flogged :

(*b*) the offence for which each such person was convicted and the name and designation of the officer who passed the order :

(*c*) the number of stripes inflicted on each such person, and

(*d*) the name of the locality where the flogging was administered.

V. Will the Government be pleased to state :

(*a*) the number of persons who were sent under the Martial Law to the Central Jail, Lahore, to be flogged there and were actually flogged ;

(*b*) the authority under whose orders they were so flogged :

(*c*) whether there is a record of all such cases of flogging. If there is, will the Government be pleased to lay it on the table?

VI. Will the Government be pleased to give the names, ages and other particulars of persons who were flogged on being arrested and subsequently put on trial in what is known as the Sherwood case of Amritsar.

VII. Will the Government be pleased to lay on the table lists of persons who, after being sentenced by Martial Law Commissioners or other Martial Law officers were

(*a*) executed

(*b*) transported,

(*c*) confined in the Lahore Central and Borstal Jails and various District Jail in the Punjab?

Killed or wounded by Firing.

VIII. Will the Government be pleased to lay on the table a statement showing the total number of persons who were (1) killed or (2) died of wounds, or (3) were wounded but recovered during the recent disturbances in the Punjab, giving the names, perentage and other particulars and specifying the place where each person was killed or wounded?

IX (*a*) Will the Government be pleased to state how many people (*a*) killed and (*b*) wounded by the firing that took place on

(*i*) the Upper Mall, Lahore, on the 10th April,

(*ii*) outside the Lahori gate on the 10th April,

(*iii*) in the Hira Mandi Chauk on the 12th April?

(*b*) Will the Government be pleased further to state the number of persons injured, if any among the Police or the Military specifying the nature of their injuries received in the places and on the occasions mentioned above?

X. Will the Government be pleased to state what steps were taken by the Police or the Military to disperse the crowd in the three places mentioned in the preceding question before they resorted to firing; also to state what was the immediate cause which necessitated the firing on each occasion?

XI. Will the Government be pleased to state if it is a fact that some of the wounded on the Upper Mall, Lahore, who had been taken possession of by the Police, were removed to the Charing Cross Police Station and not to the hospital which was nearer, and that some out of this number died at the Police Station, without any medical aid? Will the Government be pleased to state the number of persons who so died at the Police Station, with their names and other particulars?

Deportation of Drs. Satyapal and Kitchlew.

XII. Will the Government be pleased to state (*a*) whether

orders had been issued at the end of March or the beginning of April, 1919, against Dr. Satyapal and Dr. Kitchlew, of Amritsar, under the Defence of India Act requiring them to abstain from addressing public meetings and whether these gentlemen had submitted to those orders ? (*b*) if so, what was the reason for deporting these gentlemen on the 10th of April ?

XIII. Will the Government be pleased to state if it is a fact that the Government apprehended public excitement at the deportation of Dr. Kitchlew and Dr. Satyapal and for that reason piqueted the carriage-overbridge with the Military or mounted Police ?

XIV. Will the Government be pleased to state if it is a fact that on the morning of the 10th April, business in Amritsar was going on as usual till the news of the deportation spread through the city, when all shops were suddenly closed in consequence thereof ?

XV. Is it a fact that after the shops were closed an unarmed crowd started from the city to go to the house of the Deputy Commissioner to urge the release of the deportees and on the route passed by the National Bank, the Alliance, the Chartered Bank, the Church, Town Hall and other public buildings without making any attempt at mischief ?

XVI. Is it a fact that the progress of the crowd towards the Deputy Commissioner's bungalow was barred by the piquet mentioned above which fired upon the crowd ? If so, what was the immediate occasion for the firing ?

The Firing Order.

XVII. Will the Government be pleased to state

(*a*) the number of times the crowd was fired upon at the foot and carriage overbridges at Amritsar on 10th April ?

(*b*) Is it a fact that no violence against person or property was committed by any section of the crowd till after they had been fired upon ?

XVIII. Will the Government be pleased to state (*a*) whether any proclamation prohibiting meetings under the Seditions Meetings Act was issued on or before the 13th April, 1919, at Amritsar ? If so, at what time, in what manner and in what parts of the city was it published ?

(*b*) If no such proclamation was published, will the Government be pleased to state if there was any prohibition of meetings by any other authority on or before the 13th April and if so, when, under what law and by whom such prohibition was issued, and in what parts of the city and in what manner it was published ?

Jalianwala Massacre.

XIX. Will the Government be pleased to lay on the table a plan of the Jallianwalla Bagh where a large number of people were

shot while assembled at a meeting on the 13th April, 1919, drawn to scale, and showing,

(*a*) all the entrances and exits to the Bagh;

(*b*) the height of the houses and the walls surrounding the Bagh;

(*c*) the spot where the Military were posted at the time of the firing on the 13th and its height above the ground where the people were assembled;

(*d*) the position of the armoured car posted in or near the Bagh on that day and

(*e*) the position of the audience and their distance from the firing party.

XX. Will the Government be pleased to state what was the number of persons assembled at the Jallianwalla Bagh on the 13th April at the time they were fired upon?

XXI. Will the Government be pleased to state

(*a*) how and when and by whom the meeting at the Jallian walla Bagh held on the 13th April was advertised in the city?

(*b*) when did the authorities come to know that such meeting was going to be held?

(*c*) what steps, if any, were taken by the authorities to make it known to the persons assembling that the meeting was prohibited.

(*d*) when did the people begin to assemble in the said Bagh?

(*e*) at what time did the proceedings begin and how long did they continue before the arrival of the Military?

(*f*) whether there was any reconnoitering by aeroplane over the Jallianwalla Bagh at the time the meeting was going on and before the Military arrived?

(*g*) What steps, if any, were taken by the authorities to disperse the meeting from the time people began to assemble to the time when the Military arrived?

(*h*) At what time did the Military arrive on the scene and how long after did they open fire on the crowd?

(*i*) What was the strength of the Military, what was their equipment and who were the officers in command?

(*j*) Did any, and if so, which Magistrate or other responsible civil officer accompany the Military to the garden or was present there at the time of the firing?

(*k*) By whose orders were the Military sent there and with what instructions, if any?

(*l*) Were the people assembled entirely unarmed and were there also a number of children among them?

(*m*) Was the order to fire given by any Magistrate or did the Military act on their own initiative?

(*n*) Did the officer who ordered firing warn the people assembled and give them time to disperse before giving the order?

(*o*) How long did the firing last and how many rounds were

fired? What was the nature of the ammunition used? What was the total number of bullets actually fired?

(*p*) What was the total number of persons (i) killed (ii) wounded, who subsequently died, (iii) wounded who recovered, at Jallianwalla Bagh together with the names, parentage, age, residence and other particulars?

(*q*) Whether there were any ambulance or first aid arrangements previously made by the authorities for the wounded, on the spot? If not, were any steps taken, after firing, for the disposal of the dead bodies and the treatment of the wounded?

(*r*) Of the persons wounded at the garden how many were admitted to any hospital?

(*s*) Was any order in force at Amritsar on the 13th April last, prohibiting people from leaving the houses after 8 P. M.?

(*t*) How long after the firing was the Bagh cleared of all corpses and by what agency?

(*u*) Will the Government be pleased to state if some of the dead and the wounded lying overnight in the garden were mutilated and despoiled of their valuables during the night?

(*v*) Will the Government be pleased to state whether any boys or children were shot or otherwise killed or injured at the Jallianwalla Bagh on the 13th of April, 1919, and if so, will the Government be pleased to give a list of the children, stating their names, ages etc.?

XXII. Will the Government be pleased to state whether there were any casualties among people who were in the houses or streets in the neighbourhood of the Jallianwalla Bagh when the firing took place there on the 13th of April? If so will the Government be pleased to state the names, age and other particulars of the sufferers?

XXIII. Will the Government be pleased to state if any steps were taken by the authorities and if so, when to ascertain the names and prepare a list of all the persons killed and wounded in the Jallianwalla Bagh?

XXIV. Is it a fact that the 13th of April was the Baisahk festival (New Year's day) on which the biggest *mela* in the province is held at Amritsar which is attended by thousands of persons from all parts of the province? Will the Government be pleased to state if a large number of such persons from outside were also present in the meeting at the Jallianwalla Bagh on that day? If so what steps were taken and when, to trace out the casualties among them?

XXV. Will the Government be pleased to lay on the table a statement giving the names of persons who were wounded at the Jallianwalla Bagh, who have been prosecuted and convicted or

discharged, stating in cases of conviction, the offence or offences with which they were charged and the punishments awarded to them ?

Martial Law Orders.

XXVI. Will the Government be pleased to lay on the table copies of all orders, proclamations, posters, notifications and notices issued,

(*a*) by the administrators of Martial Law in the Panjab in their respective areas,

(*b*) by civil authorities in the same areas during the operation of Martial Law,

(*c*) by civil authorities after the withdrawal of Martial Law notifying that certain acts by the civil population will be treated as offence, and dealt with by military officers ?

XXVII.—(*a*) Will the Government be pleased to state if it is a fact that in the lane known as Doggalan-ki-gali in the quarters known as Kanriyanwala Khub,where Miss Sherwood was assaulted, every Indian, irrespective of age or position in life, wishing to pass through the lane, was made to crawl on his belly through the whole length of the lane and British soldiers were posted from morning to 8 P. M., to enforce the observance of this order ?

(*a*) Whether as a consquence of the enforcement of this order, houses in the lane remained unscavenged for many days.

XXVIII. Will the Government be pleased to state,

(*a*) If all the legal practitioners of Amritsar, nearly hundred in number, were compulsorily enrolled as special constables, and irrespective of age and physical fitness,not only were made to patrol the city for nearly a month, but also required to walk several times a day to a place outside the city, to answer the roll call ?

(*b*) Were they allowed to attend to their professional duties during the period ?

(*c*) Is it also a fact that these lawyers were made to fetch and carry tables, chairs, etc., for Europeans ?

(*d*) Is it also a fact that the said lawyers were all summoned and made to stand in rows in front of the flogging stand and that two persons were actually flogged in their presence ?

XXXIX. (*a*) Will the Government be pleased to state if it is a fact that the electric and water-supply of the whole city of Amritasar, exclusive of the civil lines was cut off for four or five days about the 12th of April last ?

(*b*) Is it also a fact that a large number of wells in the city of Amritasar had been closed in recent years when Mr. King was Deputy Commissioner there ?

XXX. Will the Government be pleased to state :

(*a*) If it is a fact that several very respectable undertrial

prisoners, including bankers, lawyers and doctors of Amritsar, were handcuffed in pairs and confined for several days in an open racket court in April last at a time when it was hot during the day and cold during the night ;

(*b*) whether they remained so handcuffed continuously for all the 24 hours of the day for several days together and whether they had to eat, drink, sleep and attend to the calls of nature while so hand cuffed in pairs ;

(*c*) Whether the said prisoners where subsequently removed to cells in the forts and kept there so hand-cuffed ? if so what were the dimensions of such cells and the number of prisoners confined in each ?

Machine gunning at Gujranwala.

XXXI. Will the Government be pleased to place on the table plans drawn to scale of the town of Gujranwala and of Gharjak Bhagawanpura Dhulla and other neighbouring villages thereof where bombs were dropped or machine guns were used, showing

(*a*) the situation of the properties to which damage was done by the mob on the 14th April, last ;

(*b*) houses actually occupied on the 14th and 15th April by the Europeans ; and

(*c*) the spots where bombs were dropped or to which machine gun fire was directed indicating in each case whether it was part of a house or other building or an open space ?

XXXII. Will the Government be pleased to state

(*a*) how many aeroplanes were sent from Lahore to Gujranwala on 14th April 1919 and by whose order ?

(*b*) How many of these aeroplanes were equipped with machineguns or armament of other kinds ?

(*c*) How many bombs were dropped from these aeroplanes and how many shots fired from machine or other guns ?

(*d*) What was the total number of casualties due to such, giving the names and other particulars, bombing and firing, of the persons wounded or killed ;

(*e*) Whether any bombs were thrown, or shots fired from aeroplanes at any place in Gujranwala town or in neighbouring villages on any date after the 14th April. If so how many and where ?

XXXIII Will the Government be pleased to state the sex, ages, designations and other particulars of Europeans who were in Gujranwala town at the time of the arrival of the aeroplanes on the 14th April.

XXXIV. Will the Government be pleased to state the names and places, if any, in the Gujranwalla district other than the town of Gujranwalla and its neighbourhood, where any firing was

resorted to by the police or the military ? If so, will the Government state the nature of arms or ammunition used in each place and the number of casualties with names and other particulars.

Messrs. Melaram and Labh Singh.

XXXV. Will the Government be pleased to state,

(a) if it is a fact that on the 15th April last, Col. O'Brien, Deputy Commissioner of Gujranwalla, with a strong body of police and European soldiers and with an armoured car marched to the house of Lala Melaram, B. A., LL. B., pleader and arrested and handcuffed him and took him away without allowing him to dress himself or to speak to his family,

(b) Whether the party then met Mr. Labh Singh, M. A., (Cantab), Barrister-at-Law and arrested and handcuffed him and chained him with Lala Melaram.

(c) Whether the party then proceeded to the houses of twenty other gentlemen, pleaders, bankers and other respectable citizens, and arrested and handcuffed and chained them all together ?

(d) Whether the persons so arrested and chained together were marched to the city two and two, headed by a Hindu and Muhammadan to ridicule Hindu and Muhammadan unity, as was stated at the time by Col. O'Brien ?

(e Whether under the orders of Col. O. Brien two Municipal Commissioners walked in front of the procession thus formed and pointed to the aeroplanes hovering overhead, and kept on shouting to the people to make way for the prisoners on pain of being bombed or shot down ?

(f) Whether after being thus paraded through the principal streets of the town, the prisoners were taken to the railway station and put into an open coal truck which was guarded by a number of European soldiers with fixed bayonets and by an armoured engine with a gun directed towards the prisoners.

(g) Whether the prisoners were not allowed to leave their places even for the purposes of attending to the calls of nature ; and whether some gentlemen had to relieve them even where they were huddled together,

(h) Whether on reaching the Lahore Railway station, and before being removed to the jail, the prisoners were kept for about ten hours along with thirty other prisoners in a room which opened by means of an iron barred unpanelled door into another room which was used as a latrine.

XXXVI. Will the Government be pleased to state whether a number of pleaders and other respectable citizens in the town of Shekhupura in the district of Gujranwala were arrested and treated in a manner similar to that adopted at Gujranwalla and were subjected to similar inconveniences when being taken to Lahore ?

XXXVII. Will the Government be pleased to state whether almost the entire population of the town of Shekhpura above the age of 10 years irrespective of rank or social position was summoned by Mr. Bosworth Smith, I. C. S., Joint Deputy Commissioner and one of the Martial law officers, and made to sweep a large open piece of ground ?

XXXVIII. Is the government aware that a marriage party of certain Muhammadans of village Rajgarn within the municipal limits of Lahore was arrested and the members thereof were convicted by Mr. E. A Penhearow, one of the martial law officers of Lahore ?

If so, will the Government be pleased to state :—

(*a*) the number of persons tried and convicted ?

(*b*) whether the bridegroom and the Mullah Priest were also among the accused ?

(*c*) the offence for which they were arrested and tried, and

(*d*) the sentences passed upon each person ?

Correspondence between Imp. Govt. and Punj. Govt.

XXXIX. Will the Government be pleased to lay on the table the correspondence which passed between it and the Punjab Government leading to the declaration of martial law in the Punjab ?

XL. Will the Government be pleased to state :—

(*a*) the facts and circumstances, which in its opinion constituted a state of open rebellion against the authority of the Government in certain parts of the province of the Punjab, within the meaning of Regulation X of 1804, on the date on which Ordinance I of 1919 was promulgated by the Governor-General, and,

(*b*) the date or dates up to which such state of open rebellion continued in each part of the Punjab to which the said Ordinance had been applied ?

Gurdaspur Next !

XLI. Will the Government be pleased to state :—

(*a*) Whether a number of barristers, pleaders and other respectable persons of Gurdaspur district, where martial law was never proclaimed, were arrested on or about the 2nd May, 1919, brought in hand-cuffs to Lahore, confined in the central Jail there and released at Gurdaspur on the 8th July without trial after having been kept in solitary cells for most of the period ?

(*b*) If so will the Government be pleased to give the names and other particulars of the persons arrested, and state the reasons for their arrest and the law under which they were detained in custody without trial for such a long time ?

XLII. Is it also a fact, that at the time of the release of the Gurdaspur lawyers referred to in the preceeding question, the District Magistrate of Gurdaspur, Mr. Harcourt, I. C. S expressed

his regret in open court that Government had taken no action against them, and told them that he, however, was taking steps to move the High Court at Lahore to proceed against them under the Legal Practitioners Act ?

General Dyar !!!

XLIII. Will the Government be pleased to state : —

(*a*) Whether General Dyer visited Gurdaspur on the 18th April, 1919 and held a Durbar in the Government School hall to which lawyers, honorary magistrates, Government servants, bankers, traders, ziladers, lambardars, etc., were invited by the Deputy Commissioner.

(*b*) Was the hall guarded by the military with armoured cars and machine gun ?

(*c*) Did General Dyer address the audience as *Budmashes* and use other insulting language ?

XLIV. Did General Dyer address similar remarks to a similar meeting at the town of Batala in the district of Gurdaspur ?

XLV. (*a*) Is it a fact that Sardar Gauhar Singh, a retired inspector of police of Sheikarpura, was arrested and sent to the Central Jail at Lahore as a hostage for his three sons named Amar Singh, Atma Singh and Santokh Singh, the last aged 16 years, who were wanted by the police but could not be found at the time in the station ?

(*b*) Is it also a fact that though he has been released, a report has been made by the executive authorities recommending forfeiture of his pension ?

And then Hafizabad !!

XLVI. Will the Government be pleased to state :—

(*a*) If it is a fact that the Gujranwalla police proceeded to the town of Hafizabad with a warrant for the arrest of 121 persons, containing neither names nor the descriptions of the persons to be arrested and that the said police did arrest 121 residents of Hafizabad under the warrant.

(*b*) Will the Government be pleased to place on the table a statement giving the names and other particulars of the persons so arrested, the dates of their release and of conviction, the offence or offences for which they were arrested or convicted and the sentences awarded to those convicted ?

XLVII. Has the attention of the Government been drawn to a letter published in the *Leader* newspaper of Allahabad, dated the 14th August, 1919 and signed ' Justice,' detailing the humiliation to which the people of Hafizabad were subjected during the martial law period, in particular that school children and even infants of four or five years of age had to be present at the roll call twice a day before a military officer ?

XLVIII. Will the Government be pleased to state if it is a fact that certain district officers or their subordinates in the Punjab have imposed and collected by coercion and threats large sums of money as fines from several villages and small towns for their alleged misdeeds during the recent disturbances? If so will the Government be pleased to make a detailed statement showing the amount so collected from each village or town, the law under which, and the authority under whose orders the money was so collected and the manner in which it was disposed of?

Aeroplane Bombing of School boys !!!

XLIX. Will the Government be pleased to state:—

(*a*) Whether on the 14th April last a bomb was thrown from an aeroplane at the Bhalsa High School boarding house at Gujranwala, which is situated at a distance of over a mile from the buildings against which any violence had been committed and the places where any mob had collected?

(*b*) Did the bomb burst and injure the platforms and some of the walls of the premises?

(*c*) Were over 150 students present at the time in the boarding house?

(*d*) Is it a fact that shots were fired from one of the aeroplanes and injured a *halwai* who had a shop on the premises?

Kasur.

L. Will the Government be pleased to state whether Lala Dhanpat Rai, pleader of Kasur, aged over 70 years, was arrested on the 15th April, four days after the riot that took place there, handcuffed and marched to the railway station surrounded by a strong military guard with fixed bayonets, and from there taken to the Lahore jail where he was kept for nearly two months and then released without any charge or trial?

LI. Will the Government be pleased to state, if amongst others, Maulvi Ghulam Mohi-ud-in, pleader of Kasur (who had last year been publicly rewarded for his services in connection with the War) and Maulvi Abdul Qadir, a senior pleader of Kasur, were arrested and kept in confinement for some weaks in an improvised lock-up in the railway station, and were then released without any charge or trial?

LII. Will the Government be pleased to state if it is a fact that three gallows were erected in a public place at Kasur, and were not taken down till after several days? If so, what was the object with which they were so p

LIII. Will the Government be pleased to state if it is a fact that several school boys at Kasur were flogged, and if so to state their names, ages and other particulars together with the number of

stripes administered in each case and the offence for which the boys were so punished?

LIV. Will the Government be pleased to state if it is a fact that during the martial law period, permits to travel were refused to several pleaders of Kasur, who had to attend to their cases before ordinary municipal courts at the head-quarters of the district, *viz.*, Lahore?

LV. Will the Government be pleased to state if it is a fact that on or about the 1st of May, 1919, practically the whole population of the town of Kasur, was summoned to the railway station for the purpose of identification, and that they were made to stand bareheaded, exposed to the sun, for six hours or so? Is it also a fact that while the male population was thus withdrawn from the town, several houses were searched by the military or the police accompanied by the Ward member, and that in some cases, even the Zenana apartments were entered in search of possible hiders?

Lala Manohar Lal.

LVI. Will the Government be pleased to state why Mr. Manohar Lal, M. A., (Cantab), Bar-at-law, formerly Minto Professor of Economics at the University of Calcutta and now a prominent member of the Lahore bar and a syndic of the Panjab University, was arrested on the 18th April, 1919 and kept in jail for nearly a month, including one week of solitary confinement?

LVII. Will the Government be pleased to state if it is a fact that on the date Mr. Manoharlal was arrested his bungalow was locked and sealed by the police and his wife and children turned out and obliged to live in one of the outhouses used as servants quarters, until the bungalow had been searched about a week later?

Rai Saheb Ram Prasad.

LVIII. Will the Government be pleased to state—

(*a*) Why Rai Sahib Seth Ram Prasad, Municipal Commissioner, and one of the largest house proprietors and bankers of Lahore, was arrested in April last and marched in handcuffs to the Central Jail, a distance of nearly three miles, kept in solitary confinement, and then released without trial after several weeks?

(*b*) Will the Government be pleased to state the sums subscribed by him and his son towards the War loans and war charities and other services rendered by him during the War.

Lala Ratan Chand.

LIX. Will the Government be pleased to state if the following incidents connected with the arrests and detention without trial, of Lala Ratanchand, Secretary of the Punjab Provincial Congress Committee, and Lala Dhaniram Bhalla, a merchant of Anarkali, Lahore, are correct? A letter from the deputy commissioner of Lahore

was received by Lala Ratanchand on the 19th of April asking him to produce his carriage before the martial law officer in charge o the transport. Lala Ratanchand immediately wrote in reply that he had never possessed and was not then in possession of any carriage at all. In spite of this, on the 20th of April, he was sent for by the Deputy Commissioner and asked why he had failed to produce his carriage. Lala Ratanchand explained that he had no carriage at all. After further questions his statement to this effect was recorded by the Deputy Commissioner, and he was allowed to go.

On the evening of the 22nd at about 8-30 P M, Lala Ratanchand was arrested by a police Inspector and taken to the police station where he was told that the reason for his arrest was his failure to produce a carriage in accordance with the orders of the Deputy Commissioner. On his again representing the facts of the case, the police officer had enquiries made from Lala Ratanchand's neighbours and relations, and after having satisfied himself, he released him.

In the afternoon of the 24th April the superintendent of police C. I D., went to his house with a military guard in motor-car and arrested Lala Ratanchand again and took him to the Delhi Gate police station while he was under high fever. Here Lala Ratanchand and Lala Dharamdas Suri, Vakil, High Court, and Dhuniram Bhalla, who had also, in the meanwile been arrested, were surrounded by about a hundred European and Indian soldiers, with fixed bayonets and made to walk through the city to the Fort, a distance of about a mile, where they were confined. Here Lala Ratanchand and Lala Dhaniram were kept for fifty days during which time no statement was ever taken from them nor were they ever told for what offence and under what law they had been arrested and detained.

LX. Will the Government be pleased to state the circumstances under which the following persons were arrested and released without trial after being kept in custody for several days —

1. Lala Dunichand, piece-goods marchent, Bazaz Hatta, Lahore.
2. Lala Vaid Raj Sardarilal, managing director, Ayurvaidic and Pharmaceutical Company, Ltd, Lahore.
3. Sardar Wadhawa Singh, dealer in perfumes, and jams, Lahore.
4. Lala Amirchand, proprietor, Swadeshi Stores, Anarkali, Lahore.
5. Lala Jagannath, Secretary, Arya Samaj Wachhowali, Lahore.
6. Lala Hiralal Kapur of the Punjab *Samachar*, Lahore.
7. Lala Kaluram Kohli, proprietor Simla Hindu Hotel, Lahore.
8. Lala Diwanchand, proprietor, West End House, Lahore, (arrested at his shop at Amritasar).
9. Lala Mohanlal Saraf, banker, Suha Bazar, Lahore.

10. Lala Kishenchand, carpet merchant, Lahore.
11. Lala Saligram, proprietor, Aror Bans Press, Lahore.
12. Lala Rajaram, Jeweller, Bazaz Hatta, Lahore.
13 Lala Daulatram, goldsmith, Cunt Bazar, Lahore.
14. Mistri Karimbaksh, gas contractor, Gumti Bazar, Lahore.
15. Pandit Amarnath Sharma, estate agent, Jauri Mauri, Lahore.
16. Lala Chunilal, shopkeeper, Moti Bazar Lahore.
17. Sirdar Mohan Singh, hardware merchant, Dabbi Bazar, Lahore.
18. Lala Hemraj, banker and landed proprietor, Shadara.
19. Mian Sardar Mahammad, *alias* Saradhara Munshi, Shahdara.
20. Mian Siraj Din, Munshi, Shahdara.
21. Mian Nurdin, *alias* Madha, Mochi Gate, Lahore.
22. Mian Zahur Din, son of Nurdin, house proprietor, Rang Mahal Bazar, Lahore.
23. Lala Jagannath, cloth merchnt Bazar Hatta, Lahore.
24. Desraj, stamp vendor and deed writer, Bazar Hatta, Lahore.
25. Lala Mulk Raj, shopkeeper and Chaudhri of Gumti Bazar, Lahore.
26. Badshah Bhusowela, Bhati Gate, Lahore.
27. Nalha Khan *alias* Malha, Halwai, Delhi Gate, Lahore.
28. Mian Shadi Khan, Kakenai, Mohalla Kalal, Lahore.
29. Mian Ibrahim Khan, cloth merchant, Lohari Mandi, Lahore.
30. Pt. Jairam Das, Khatri Kucha Kaghzian, Machhi Hatta, Lahore.
31. Lala Jairam Das, Khatri, Kucha Kaghzian Macchi Hatta, Lahore.
32. Pandit Hukumal, son of Pandit Thakur Das, Wachhowli, Lahore.
33. Lala Beliram of the firm of Ganeshdas Shankar Das, Bazaz Hatta, Lahore.
34. Mian Rajadin, umbrella maker, Dabbi Bazar, Lahore.
35. Mian Muhammad Hassan, son of Shadi Khan Kakezai, Mohalla Kalal, Lahore.
36. Mian Jalal Din, son of Azizuddin, shopkeeper, Akbari Mandi, Lahore.
37. Swami Sevananand, physician-in-charge of the Ramakrishna charitable dispensary, Sutar Mandhi, Lahore.
38. Lala Ganeshdas, merchant, Bazaz Hatta Lahore : and
39. Tarachand, barber, Wachchoowala, Lahore.

LXI.—Will the Government be pleased to state if Dr. Kedar Nath of Amritsar, a retired civil Surgeon, aged 60 years, who had been invalided in 1909 on account of heart troubles, was arested and hand cuffed and marched through the streets with 62 other prison-

ers, to the Jail, and kept in confinement for a fortnight with two other prisoners, in a cell which was meant for one person only and then released without trial. If so, for what offence ?

Martial Law Posters.

LXII. Will the Government be pleased to state :

(*a*) If it is a fact that Martial Law notices were posted at the houses and shops of a number of people at Lahore with directions that the occupants must guard the posters, and that if they were damaged, torn or disfigured, the occupants would be severely punished under Martial Law.

(*b*) Is it a fact that mostly the people who had taken part in public movements or had any interest in any of the persons arrested were selected for this form of harrassment ?

LXIII, Will the Government be pleased to state if it is a fact that even after the arrest of the persons at whose houses the Martial Law notices were posted at Lahore, Martial Law authorities continued to post such notices at their houses, making the members of their families responsible for duly exhibiting and protecting them, thus forcing them to keep anxious and continuous personal watch over the said posters ?

LXIV. Will the Government be pleased to lay on the table a statement showing the number of persons punished for tampering with the Martial Law posters giving in each case the name, age, parentage, etc., of the said persons and the punishment inflicted upon them ?

LXV. Will the Government be pleased to state if it is a fact that (a) the name of the Sanatan Dharma College Hostel, Lahore, was not included in the first published list of places at which Martial Law notices were to be exhibited ?

(*b*) That notwithstanding this some posters were put up on the boundary wall of the hostel without intimation to the College authorities or the inmates of the hostel ;

(*c*) That one of the posters was torn by some unknown person whose identity has not yet been discovered and on this all the students in the Hostel were called by the Martial Law authorities and were marched in the sun carrying their bedding on their shoulders to the Fort, a distance of nearly three miles, and interned there in a body.

(*d*) That the students were not released until the principal and the president of the Committee of the College gave an undertaking on the following day to the authorities to be personally responsible for the proper exhibition and safety of the notices ?

Dayalsingh College Poster !

LXVI. Will the Government be pleased to state if it is a fact that (a) one morning during the Martial Law period, the

Principal of the Dayalsingh College, Lahore, was served with an order of the Administrator of Martial Law, Commanding Lahore Civil Area, to the effect that it had been reported to him that a certain objectionable poster had been found put up on the outer wall of the College premises and had been removed by the police and brought to his notice, and that if the College authorities did not find the writer and report him before 12 noon the same day, drastic measures would be taken against all concerned with the College.

(*b*) On this the trustees (Raja Narindra Nath, M. A., once Commissioner of Lahore, Rai Bahadur Sundardas Suri, M. A., and Lala Shiva Dayal, M. A., retired inspectors of school and Lala Kunwar Sain, M. A., Barrister-at-Law and Principal, Law College) and the staff made a careful inquiry and came to the conclusion that none of the students of the College was the writer of the notice.

(*c*) That meanwhile Col. Frank Jhonson, the Martial Law Administrator, arrived there in person and it was pointed out to him that there were no signs on the wall at all to indicate that the poster in question had been nailed or posted there. But he replied pointing his finger to a certain spot on the wall that he decided that it had been posted at that spot.

(*d*) That the next day the Principal was sent for at the Martial Law headquarters and was informed that he must pay a fine of Rs 250 or in default undergo three months imprisonment and then he was taken in a motor car to the College with two soldiers, with fixed bayonets, and was released on payment of the fine to the latter.

(*e*) That from that time onwards the students began to keep careful secret watch all round the extensive College and hostel premises day and night in batches and kept a regular diary.

(*f*) That after a few weeks' continuous watch and ward, the batch of students on guard at the time caught hold of a person red-handed trying to put up on the College wall, a spurious poster and were about to take him before the Martial Law authorities when several other persons arrived on the scene and rescued the offender saying that they belonged to the police and would themselve take him before the Martial Law officers.

(*g*) That on this incident being brought to the notice of the Martial Law authorities by the Principal the fine which had been previously imposed on him was remitted

Will the Government be pleased to give the name and other particulars of the offender, and state what action if any has been taken against him ?

LXVII. Will the Government be pleased to state if it is a fact that all the students of the D. A. V., the Dyalsingh and the Medical Colleges at Lahore were required to attend roll-calls before mili-

tary officers when they were made to stand in the sun, guarded by the military with fixed bayonets and that this process was continued for three weeks, immediately preceding the university examinations.

(*b*) Is it also a fact that in the case of the King Edward Medical College, the total distance which the students were made to traverse on foot in the summer heat for attending the roll-call amounted to not less than 16 miles a day ?

(*c*) Is it a fact that some students actually fainted while going to, attending, or returning from such roll-call parades and that thereupon a nearer place was fixed for taking the roll-call ?

LXVIII. Will the Government be pleased to state if it is a fact that the Principals of certain colleges in Lahore were coerced by the Martial Law Administrator to inflict very severe punishments on a certain percentage of their students without regard to any evidence of their guilt ? If so, will the Government be pleased to lay on the table all the orders issued by the Martial Law Administrator and all the correspondence relating to this matter between him and the Principals of the said colleges ?

LXIX. Will the Government be pleased to state how many motor-cars, cycles, carriages, bycycles, electric fans, lamps, and telephones were commandeered from the inhabitants of Lahore and what was the military necessity justifying such a course ?

LXX. Is it a fact that most of the Europeans whose motor-cars had been commandeered were supplied by the military authorities with conveyances commandeered from Indian gentlemen ?

LXXI. (*a*) Will the Government be pleased to give the names and addresses of all the residents and institutions from whose premises electric fans, lights, and phones were removed ?

(*a*) Have the fans, lights, telephones so commandeered been in all cases returned to their respective owners since the withdrawal of Martial Law ? If not, why not ?

LXXII. Will the Government be pleased to state if it is a fact that electric fans and lamps were removed by the Martial Law authorities from places of worship like the temples of the Brahmo Samaj and Arya Samaj, thus hurting the feelings of and causing discomfort to the worshippers ? And is it a fact that in spite of representations having been made both to military and civil authorities these fans and lamps have not yet been returned ?

LXXIII. Is the Government aware that in some cases tried by Martial Law officers, specially towards the close of the Martial Law period, the accused were convicted without the whole of the defence evidence being heard, even though witnesses were present in court on the ground of want of time, *e.g.*, in the case of Lala Gurdasram and Lala Shivaram, pleaders of Hafizabad, in the dis-

trict of Gujranwala who were sentenced to two years' rigorous imprisonment each by Mr. Wace, I. C. S.

LXXIV. Will the Government be pleased to state if it is a fact (*a*) that Ramlok, son of Daulatram, aged 17 years, a student of the Government High School, Lyallpur, was arrested on the 25th April, and having been detained in police custody for 3 weeks was released for want of evidence against him ; (*b*) that several days after his release his father Daulatram appeared as a defence witness for one Ramditta and deposed that the police had asked Ram Ditta to turn an approver but he had refused to do so.

(*c*) That on this his son Ramlok was re-arrested on the following day and put on his trial for the very same offences for which he had been arrested and released before ;

(*d*) That the trial of Ramlok was fixed for the 9th and 10th June, but as Martial Law was going to be withdrawn at midnight on the 9th June without any previous intimation having been given to the accused or to his father, and

(*e*) That the accused was tried and sentenced to one year and seven months' rigorous imprisonment for offences under section 147, 426 and 506, Indian Penal Code by Mr. A. L. Hoyel I. C. S., officer presiding over Summary Courts under Martial Law, without any chance being given to him to produce his defence ?

LXXV. Will the Government be pleased to state if it is a fact —(*a*) that one Bhagwan Singh, a meat-seller of Lyallpur was arrested on the 6th June last and placed before the Martial Law Summary Court on the 7th June, (*b*) that on the 8th June, part of the evidence was heard and the case was adjourned, (*c*) that as the Martial Law was to be withdrawn at midnight on the 9th June the case was taken up at 11 o'clock that night without any opportunity being given to his counsel to be present, and the accused sentenced to three months' rigorous imprisonment ?

Queer Judicial Procedure.

LXXVI. Is the Government aware that in some cases tried by the Martial Law Commissions constituted under Ordinance No. I of 1919, no record of evidence of witnesses either for the prosecution or the defence has at all been made nor judgments recorded, though heavy sentences have been awarded, *e. g.*, (*a*) the case of Crown *versus* Farzala, son of Gumardin, Kakazai, convicted under section A and sentenced to transportation for life by the Commission presided over by Lt. Col. Irvine on the 26th of April 1919 and (*b*) trials No. 20 and 21 of Hansraj and Hariram of Amritsar before the Commission presided over by the Hon. Mr. Justice Lesli Jones, I. C. S., Judge of the High Court of Judicature at Lahore, convicting the aforesaid persons to 7 years, rigorous imprisonment each under section 412. I. P. C. ?

LXXVII. Is the Government aware that in several cases tried by the Martial Law Commissions constitued under Ordinance No. 1 of 1919, examination of outside witness for the defence was refused except by interrogatories and when in pursuance of this order of the Commission interrogatories were actually put in, they were referred by the Commission to the convening authority who disallowed such as he did not think proper, without hearing the accused or his counsel in contravention of the provisions of section 85 (7) of the Indian Army Act ?

LXVIII. Is the Government aware that in several instances the convening authority refused to issue interrogatories for examination of defence witness unless money was deposited by the accused to defray the expenses thereof.

LXXIX. (*a*) Is the Government aware that in the trial known as the Gujranwala Leaders case, held before the Commission presided over by the Hon. Mr. Justie Broadway, a Judge of the High Court of Judicature at Lahore, one of the accused Jagannath who wanted to establish an *alibe* by production of state records and other evidence from Kathiawar was ordered to deposit Rs. 250 before the interrogatories could be issued ?

(*b*) Is the Government also aware that though Jagannath did deposit the above sum and interrogatories were actully issued' the learned commissioners delivered judgment convicting Jagannath and sentencing him to transportation for life and forfeiture of property without waiting for the return of the interrogatories, in spite of the written and oral protest of his counsel ?

LXXX. Will the Government be pleased to state if it is a fact that in the case known as the Lahore Conspiracy case (King-Emperor *vs.* Harkishen Lal, etc.) tried by the Commission presided over by the Hon. Mr. Justice Leslie Jones, I. C. S., though the Public Prosecutor was present throughout the trial to conduct the case on behalf of the Crown, the cross examination of the defence witnesses was conducted by the commissioners themselves and the public prosecutor put only half a dozen questions to 2 out of more than 600 witnesses examined for the defence, thus depriving the defence of the right of re-examination ?

LXXXI. Will the Government be pleased to state.—

(*a*) Whether it is a fact that the Convening Authority issued written order which were exhibited in the Court room prohibiting the taking of shorthand notes of proceedings before the Commission even when an undertaking was offered on behalf of the accused that such notes would be used solely for the purpose of the cases and would not be published ?

(*b*) Is it also a fact that on protest being made by defence counsel that the Convening Authority had no power to pass such an order the Commisson presided over by the Hon. Justice Jones, I. C S., expressed its inability to interfere with the order of the Convening authority ?

LXXXII. (*a*) Will the Government be pleased to state the grounds on which the Martial Law authorities prohibited the entry of counsel from outside the Punjab into the Martial Law area ?

(*b*) Will the Government be pleased to state if Sir Earle Richards, senior counsel for the Secretary of State for India, who opposed the application of Ratanchand and Bugga Choudhry for special leave to appeal to the Privy Council, was right in stating that the prohibition was confined to persons coming from Bengal ?

(*c*) Is it a fact that besides Mr. Eardley Norton, Mr. J. N. Roy, Mr. B. Chakravarti, Mr. Gregory, Mr. Langford James, Mr. C. R. Das, Mr. B. C Chatterji of Calcutta bar, permission to appear before the Martial Law Commision at Lahore was refused to the Hon. Pandit Motilal Nehru of the Allahabad High Court, Mr. Syed Hasan Imam of the Patna High Court and Sir Chimanlal Setalvad and Mr. Azad of the Bombay bar ?

LXXXIII. Is the Government aware that the administrator of Martial Law at Lyallpur issued an order prohibiting the entry into that district of legal practioners who ordinarily practise in the districts in the Punjab, other than Lyallpur ?

LXXXIV. Is the Government aware (a) that Maulvi Muharam Ali Chishti, a Vakil of the High Court at Lahore who was unaware of the order referred to in the preceding question appeared in the last week of May before the Sessions Judge at Lyallpur in ordinary criminal case (No. 116 of 1919) without any objection being raised by any one to his entry in the district, (b) that about a fortnight later, on the 11th June two days after the Martial Law had been withdrawn from Lyallpur and on the day on which it was to be withdrawn from Lahore, Mr. Moharram Ali Chishti was arrested by the Lahore police and placed before Major Ferrar, one of the Martial Law officers at Lahore, on the charge of having acted in contravention of the Lyallpore Martial Law order referred to above and fined Rs. 100. ?

Rev. C. F. Andrews.

LXXXV. Will the Government be pleased to state (*a*) the reason why permission to enter the Martial Law area was refused to Mr. C. F. Andrews, who had been appointed as the representative of several leading Indian papers ; and (*b*) why later on when Mr.

Andrews was coming to Lahore on his own account he was taken out of the train at Amritsar railway station, detained there for several hours and finally sent back out of the province ?

LXXXVI. Will the Government be pleased to state :—

(*a*) If it is a fact that after the declaration of Martial Law at Lahore no Indian was allowed to travel by train either from or to Lahore, without a special permit granted to him by the Martial Law authorities ?

(*b*) Whether as a matter of fact such permits were granted to Indians only on the recommendation of a European or Anglo-Indian irrespective of his position in life ?

Hon. Mian Mohd. Shafi.

LXXXVII. Will the Government be pleased to state if it is a fact that the Hon Khan Bahadur Mian Muhammad Shafi, C. I. E., at that time a member of the Viceroy's Legislative Council and president of the High Court Bar Association, Lahore, asked for a permit for his agent to enable the latter to travel to his lands in the Montgomery district and that his application was refused ?

Must Salam Sahibs.

LXXXVIII. Will the Government be pleased to state if one of the orders issued by the Martial Law authorities at various places in the Punjab was that every Indian of whatever status in life must *Salam* every European ? If so, will the Government be pleased to state :—

(*a*) the areas in which such orders were issued and enforced:

(*b*) the number of persons arrested and punished for infringement of such orders, and

(*c*) the names, ages and occupation of persons who were flogged for breach of this order and the number of stripes inflicted in such cases ?

LXXXIX. Will the Government be pleased to state if it is a fact that one Gopaldas, son of Deviditta Mal, caste Arora of Akalgarh, who was a telegraph peon at Lyallpur during the Martial Law days, was arrested for not *salaming* a European officer to whom he had gone to deliver a telegram and that he was given five stripes for it in jail although he protested that he had actually *salamed* the officer and was willing to do again ?

LXL. Is it a fact that in some districts in the Punjab where Martial Law was in force, orders were issued that every Indian driving in a carriage or riding a horse must get down when he

passed by a European, and further that Indians carrying open umbrellas must close and lower them when they met a European ?

LXLI. (*a*) Will the Government be pleased to lay on the table a statement showing the number, names, and other particulars of persons, if any who have been arrested, detained, tried and punished on the railway station by the Martial Law officers, since the withdrawal of Martial Law from the districts in which those stations are situated ?

(*b*) If so, will the Government be pleased to state what is the nature of the punishment inflicted in each case ?

LXLII. Will the Government be pleased to state if there is any reason for the continuation of Martial Law on the railway stations in the Punjab ? Is the Government aware that such continuance of Martial Law exposes Indians to unneccessary humiliations and hardship and causes needless irritation ?

EXTRACTS FROM

EVIDENCE BEFORE

THE

HUNTER COMMITTEE

(*The Punjab Diorders Enquiry Committee*)

Extracts from

Evidence Before Hunter Committee

(The Disorders Enquiry Committee)

Mr. Barron, Chief Commissioner of Delhi at the time of the disturbances, tendered evidence on the 3rd November 1919 before the Delhi sittings of the Committee.

In answer to Lord Hunter, he said : The local Satyaghara Sabha was founded on the 7th March. Thirty or forty joined, mostly Home Rule Leaguers. The idea of the Sabha was the repeal of the Rowlatt Act by passive resistance by disobedience of orders. At first my information was that the hartal would not be of a general character but the organisation was more complete than was expected and the hartal was a general one. I hear that the contractor was selling sweet-meats at the third class entrance to the railway station when a body of men went and tried to stop. A certain amount of property was destroyed. As far as he could gather, 8 people were killed and two died in hospital and about a dozen people came to the civil hospital for treatment.

Q: On the morning of the 9th was any order made by you with reference to Mr. Gandhi ?

A. Yes, with the permission of the Government of India, we issued an order on Mr. Gandhi excluding him from entering Delhi.

Q. What was your reason for asking that ?

A. He advocated passive resistance and the presumption was that he was going to Delhi to continue the movement. That would probably have led to his arrest and to very serious disturbances and possibly to greater loss of life.

Q. Was he not arrested ?

A. No, he was taken back under surveillance.

Q. So far as the leaders of the Satyagraha Sabha were concerned, were they taking any part as regards the closing of shops at this time ?

A. I do not think they were. But they were not able

to control the crowd—I mean some of the principal leaders. But there were a few minor leaders who were.

Witness further said nothing of a seious nature occurred on the 10th but the time was one of great anxiety, judging from the temper of the crowd in the city. The meeting which the Deputy Commissioner had with the leaders was attended with very little result. Very early in the morning of the 14th the telegraphic message was received that there was trouble in the railway yard at Shakurpur. That was dealt with by Mr. Currie in his magisterial capacity. In a way it was connected with the disturbances in Delhi. In the morning of the 14th the railway authorities reported that the men were being stopped from going to work and some officers in the city reported the same thing. In consequence of that witness issued an order under Section 188 of the Penal Code prohibiting intimidation. Telephonic message was also received from one of the banks the their clerks were so thoroughly frightened that they could not attend office. After that a C.I.D. Inspector who was attending a meetina in Edward Park was assaulted. That was a meeting called by some of the minor leaders. That meeting was dispersed by the Magistrate with troops. There was no firing on that occasion. Witness then described the further meeting he had with leaders and the shopkeepers. When this meeting was held there was a large crowd outside the Chandney Chawk. It was getting more and more threatening until it disappeared.

Q. At this time what was the attitude of the principal leaders ?

A. They were very anxious to put a stop to this. This is true of the principal leaders.

Proceeding witness said on the morning of the 17th a number of shops in the city opened under Police protection. A large crowd attacked the picket—a constable was nearly killed. There was firing which stopped all trouble and the crowd at once left Chandney Chawk. In the afternoon the Government of India extended the Seditious Meetings Act to Delhi and witness issued a notification Immediately after this witness suggested to Simla that Martial Law should be extended to Delhi. Simla authorities instructed witness to send a report in writing and witness submitted it that evening. On the 19th the hartal came to an end.

Q. What did you attribute the termination of the hartal to ?

A. Chiefly to the action of the Police and to the rumour that Martial Law was about to be declared in Delhi and another reason was the economic factor that people were tired of the loss they were suffering.

Q. Was this period through which you passed difficult and anxious for those in authority ?

A. They were of a very great tension and we were extremely anxious during the whole period lest there should be a collision between the Police and the Military and the people and there should be more bloodshed.

Continuing witness said the mob consisted of the lower order of people. They had another hartal since then on the last 17th. October. There were two attempts to tamper with the loyalty of the troops and the Police. At this time there were a large number of rumours, one being that the Golden Temple had been bombed and a party of Sikh girls had been maltreated in the train. They came down to Delhi and it was not possible to ascertain who circulated it. They appeared in a number of newspapers also, of Delhi and of Allahabad and Bombay. There were also misleading rumours about the powers conferred on the Police by the Rowlatt Act.

Q. Did you find trace of any organised attempt to destroy property or take life on the part of the crowd ?

A. No, not in Delhi. The whole damage that occurred comes to about Rs36,000.

Continuing witness said: No public institutions were attacked. There was no indication of any special attack on Europeans but they were asked to get out of motor-cars and bicycles on account of the hartal. About this time an order was made for censorship of certain papers. The effect of this was entirely good and as a result certain newspapers ceased publication. Delhi did not entirely settle down to normal conditions. There was considerable excitement on account of the events that occurred in the Punjab and Ahmedabad. After the declaration of war by the Afghans in May, a meeting was held expressing detestation of their action.

Q. Had that meeting good effect on the state of the people ?

A. It was a good thing that such meetings should take place but it had not very much effect.

Q. There was no connection between the disturbances in Delhi and other places ? A. I could not say that. I do not quite agree with that.

Q Do you suggest that any people from Delhi went and stirred up disturbance in the Punjab or at Ahmedabad ? A. No, I did not find any evidence of that.

Q. Then you spoke of minor leaders and major leaders. Whom do you call minor leaders ? A. Those usually working behind the principal leaders.

Q. Can you name any of them ? A. One or two. With regard to the major leaders I put down Dr. Ansari, Lala Sultan Sing and Mr. Pearey Lal. Of the minor leaders, one is the Secretary of the Home Rule League (Lala Shankerlal) and the other is Abdulla Churiwalla who has been absconding.

Q. These principal leaders never intended to resort to any violence and they assisted the authorities in restoring order ?

A. They never intended any violence but they did not realise what their actions would lead to.

Q. They did their best to restore order ? A. They did, but I am sorry to say that the result was not effective. Several of the minor men were working against them.

Q. So far as in them lay they did their best to restore order ?

A. I think they did.

Q. You spoke of the total value of the damage to be Rs. 35000. Did you make out any list ? A. It was made by the District Magistrate.

Q. There was no attack on life or property except what happened at the railway station ? A. There was no organised movement to attack life or property.

Q. There was no attack on banks or public buildings as at other places ? A. Nothing of it.

Q. Was the meeting that evening which Shradhananda was addressing orderly ? A. I thought it was safe to allow it to continue.

Q. And the meeting dispersed quietly and there was no disturbance except the Manipuri incident ? A. Yes.

Q. You seem to imply that the fact that the meeting was orderly was due to the presence of the military. Was it possible that it was due to the restraining influence of the leaders ? A. Quite possibly.

Continuing witness said: On the 31st. of March there was a funeral procession in which both Hindus and Mahomedans took part but there was no disturbance but a great deal of noise. Then on the 14th. of April there was a meeting at the Jumma Masjid at which Shradhananda addressed. There was shouting but no breach of the peace. On the 6th. April there was a general hartal. There was no disturbance but people were prevented from riding motor cars and tram cars. On the whole the thing passed off quietly. Witness did issue that order about Mr. Gandhi which did excite the people but the result of Mr. Gandhi's coming would have been worse.

Q. Do you not think that he would have been instrumental in pacifying the people ? A. It did not look at all likely in view of the temper of the crowd.

Continuing witness said: He knew that Mr. Gandhi commanded great respect and influence with the masses of the country. He knew that Mr. Gandhi had openly preached against all sorts of violence but the witness was of opinion that the result of his visit was sometimes detrimental to public peace. Witness thought that the people of Delhi in general came to know of the Punjab happenings on the morning of the 11th. But in consequence of that there was no disturbance in Delhi but the temper of the crowd became more sullen and the tension became greater. There was no actual disturbance.

Q. With regard to the railway strike you agree with Mr. Orde that the causes were mainly economical ? A. It seems so. But it was political to the extent that it showed sympathy with the hartal in Delhi. Yes, the causes ware mainly economical.

Q. You told us that on the 14th. you issued an order under section 188 of the Penal Code prohibiting people from interfering with those who wanted to open their shops ? But that section does not authorise the issue of any order ? I want to know under what section you issued that order ? Ans. It was a general order.

Q. But you described the order as one under section 188 ?

A. That was shortening the description.

Q. You spoke of the meeting of the 15th. that you had with the leaders ? You said that the temper of the crowd outside was very threatening ? Was that due to the fact that they suspected that the leaders were going to be arrested ? A. There was such a rumour and that excited the people.

Continuing witness said that he had been consulted by the Government of India with regard to the suggestion of the Punjab Government that Martial Law should be extended to Delhi. He had made a report which he could make available to the committee in a confidential manner. He admitted that there was no organised attempt at alienating the sympathies of the Police and the Military but the effect of the rumours that the golden temple had been bombed and that excess profits tax would be realised from zemindars would be very great.

Q. You spoke of a meeting on the 30th. May in connection with the Afghan war. Do you think the people were sincere ? A. Yes.

In answer to General Barrow witness said that the employment of buckshot was for the purpose of saving life as far as possible.

Mr. Yule, D. S. P.

In answer to questions put by Sir Setalvad witness said that at the time firing took place the strength of the crowd was between

800 and 1000. The mob were simply demanding the release of the two men but nobody offered bail. When he arrived at the station the crowd was doing no mischief but they stopped all traffic. When witness told them to go out they went and jammed the entrance and they went out of the compound after the arrival of Mr. Currie. When Mr. Currie arrived some of the crowd went and spoke to him about this matter. Witness sent a chit to Mr. Currie saying that the Manipuris were available. These soldiers had their rifles and bayonet but no ammunition.

Q. With the 250 Manipuris and the Police constables you had, would it not have been possible to drive the crowd away?—A. I could have done that.

Q. Without firing?—A. I should think so.

Q. Then why was firing resorted to?—A. I do not know. I did not see the actual firing.

Witness added that at that moment, with the help of these Manipuris, Mr. Currie could have driven the mob out, but it could not have been done later. At no time did the crowd number more than one thousand. At the time firing took place witness was taking his lunch in the soldiers' canteen on the platform.

Q. There was no difficulty in getting the Manipuris out?

A. No.

Q. With the strength you had it might have been possible to get rid of the crowd without resorting to firing?—A. Yes, if that strength had been utilised.

Mr. Lawrie

In reply to questions put by Lord Hunter, witness said: On the 30th March when he went to the station, he found a mob in the station yard which he estimared at about 300. They were shouting and making noise. Two or three men seemed to be encouraging the crowd but he could not say who they were. He distinctly heard one man crying 'burn the station down'. There were railway police present at that time, but they were not in sufficient numbers. The second time when he arrived at the station the rioters were on the main road with the Police round and the station yard was clear. There were a certain number of soldiers from the Fort and a certain number of constables. The crowd seemed to be out for a row. They seemed to be a body of men with clean clothes and white caps. He suggested to Mr. Currie to arrest the ring-leaders. If they were surrounded by the Police they could not do anything worse. They were stopping traffic and shouting. Under Mr. Currie's instructions

the crowd was moved back. They began to throw small stones at first and then big brickbats.

Q. Did you hear an order to fire upon the crowd ?—A. I did not hear any order.

Witness proceeded further: When fire was opened the crowd rushed towards the garden and only some students remained. Almost at once he left the party with Colonel Beadon and the Manipuris. About this time the crowd was jeering at the Europeans a good deal. He had great difficulty in feeding his staff.

In reply to questions put by Sir Setalvad witness said that the crowd seemed to be out for a row as it was impossible to talk to them and they would not listen to what they said. Of course initially they came to induce the sweetmeat-sellers to close their shops. Just before his arrival they had smashed a heavy iron gate.

Q. What was the number of the crowd ?—A. I put it down at 800.

Q. All that was done by the Police nnd the military ?—A. Yes.

Q. Up to that stage no violence seemed necessary ?—No.

Q. With all the forces available would it not have been possible to drive out the crowd from the Queen's garden and make them disperse ?—The trouble began when the stones began to be thrown.

If his suggestion had been accepted there would have been no necessity of firing.

Witness further said that if his suggestion that the crowd should be pushed down towards the Fort had been accepted there would have been no necessity of firing but this was not done as Mr. Currie thought that they would disperse of themselves. Instantly they got into the garden they began to throw stones. Throwing of stones began after they went into the garden. Fifty per cent. of the Police and soldiers were hit with stones. The distance from the railway compound to the Queen's garden was about 80 or 100 ft.

General Brockman.

In reply to Lord Hunter's questions witness described the various military arrangements that had been made to cope with the disturbance.

Q. From what you saw during this period did you form any opinion as to the attitude of the civil authorities with reference

to the occurrence ?—A. Yes, I did. I think they were extremely moderate.

Q. From your own observations could you form any opinion as to whether the crowd was bent on violence ? A. I should say it was.

Q. Was there a considerable responsible element ?

A. Yes.

In reply to questions put by Sir Sitalvad witness said that on the 15th April when they were holding a meeting at the townhall a large crowd was waiting outside.

Q. Did you hear that the crowd suspected that the leaders were going to be arrested ?—A. I heard of it afterwards but I do not know the source.

Q. Was not the excitement of the people due to the rumour having spread—A. Possibly so.

In reply to questions put by General Barrow witness said there was no unnecessry display of the military.

In reply to Pandit Jagatnarain witness said that after midday he received telephonic message that a large number of natives had assembled at the railway station and were interfering with the people in or about the station.

Q. I think you were for using more force than was actually used ?—A. The mob was very leniently dealt with.

Q. Had the matter been left to you, you would have used more force ?—A. Yes.

Q. I think you believe that the only way to deal with Indian crowds is to use more force ?—A. Undoubtedly so, if they disrespect constituted authority.

Q. And you think that if more firing had been resorted to it would have good effect—it would have done a lot of good to the people ?—A. It would have a salutary effect.

Q. That is your firm opinion :—A. It is.

Q. You are against every sort of political agitation ?

A. No, not against that conducted on right line.

Q. Do you think that a strike is a sort of showing disrespect to the authorities ?—A. In India or in other country ?

Q. Do you make any difference between England and India.

At this stage the President intervened and said perhaps that was not what the witness meant.

Witness further said that his statement about sending of emissaries from Delhi and other place was based on certain information received from the Punjab Government.

Mr. Smith then put one single question to the witness.

Q. What was the feeling amongst your Indian officers then with regard to the disturbances ?—A. They could not understand why it was not put down with a firm hand.

In answer to Mr. C. R. Dass witness said that it was about 84 or 86 rounds of ammunition that was fired. The cartridges that were given to the soldiers were service cartridges. He could not testify as to whether the cartridges used were marked No. 6 or 7. They some times use 6 and sometimes 7. There was a record of it.

Mr. C. R. Das requested the President to call for this record.

Q. Cartridge No. 7 is very deadly, in the sense that it leaves a very large wound ?—A. Oh, no.

Q. Would it be right to say that if 4 persons were standing one behind the other bullet No. 7 would go clean through all the 4 ?

A. It is possible.

In reply to questions put by Sir Setalvad witness said that the crowd at the station could not have been less than 1500.

Q. Mr. Lawrie and other witnesses have said that the crowd numbered about 800. You would not contradict them. Will you ? —A. I should not agree with them.

Q. With the Military and Police force that you had and with the 250 Manipuris at the station, would it not have been possible to push the crowd further back and make them disperse without resorting to firing ?—A. The spirit of the crowd was such that they would not have dispersed.

Q. Supposing the 250 Manipuris were placed at your disposal, then with them and your forces could you not have dispersed the crowd ?—A. I do not think so.

Q. Why do you think so ?—A. It was a very deep crowd. They had a lot of strength after them.

Q. Could you not,with these 300 men and more at your disposal, disperse the crowd ?—A. By moral effect a small party of British infantry would have done that.

Q. A party of 300 men would have impressed the crowd much more than a party of 20 or 30 British soldiers ?—A. I should think the crowd would have remained there until force was used.

Q. You think that the crowd would not have dispersed unless they were fired upon, whatever the number of the soldiers might have been ?—A. I am of that opinion.

Q. Even if you had 2000 military against a crowd of 1500 or 2000 ?—A. Yes, that is my opinion.

Q. You have said that the crowd was in a threatening mood and would have struck any European. Do you think that it was an

intentional discrimination on their part? Or you merely happened to be present when a European was struck?—A. They disliked Europeans very much.

Q. Your view is that there was any manifestation of such discrimination on the part of the crowd?—A. I don't think I can say anything more than I have done.

Witness further said that when firing took place near the Town Hall the Manipuris had been called out and were holding the Queen's garden and protecting the front station. They were near the place where firing took place.

General Barrow then questioned the witness.

Q. When you say that 300 soldiers could not have dispersed the 1500 men, you mean that 300 men could not have pushed back.

A. The crowd was illtreating men, throwing bricks and stones and some of them had received very nasty cuts. One man I know had received a knock on the head.

Pandit Jagatnarain then questioned the witness at length. He admitted that only 14 men had reported their injuries and that most of the stones had fallen on their topees. Four men were badly cut.

Witness continued: The fact that he went to the station for ammunition was not because they had spent nearly 87 rounds altogether.

Q. Ordinarily speaking how many people out of a crowd would have been injured by the firing of 87 rounds of ammunition?—A. I think more people would have been hit. (then added) I think the men were taking their mark on men and not on boys and in doing so they might have missed the fire.

Q. The boys were mixed up with the crowd?—A. Yes.

Q. Was any warning given to the crowd before firing took place?

A. Yes. Mr. Currie was trying to speak to them for sometime.

Q. Did he say: "Look here, unless you disperse I will give order to fire"—A. Mr. Currie was talking to them and I know he was asking them to disperse. But I cannot tell you as to what he said as I do not know Hindusthani.

Mr. Currie.

The next witness was Mr. Currie, Additional District Magistrate of Delhi at the time of the disturbances. It was he who gave the permission to fire. His evidence is interesting in as much as it shows how lightly he gave the order to fire. He said: "Mr. Marshall came told me, give me permission to fire. I said very well."

Examined by Lord Hunter he said : He received information that there was trouble on the 30th March at 1 o'clock. He saw the Chief Commissioner with the object of informing him that military assistance was necessary. When he arrived at the station he found the crowd was shouting, they were very noisy. They were not destroying any property at the time. The crowd was large—the station yard was full and it was overflowing. Witness asked the crowd what the trouble was. He assured the crowd that the men were not in custody and that he would make enquiries but they did not go away and continued making noise.

Q. Did you form any opinion as to the size of the crowd ?—A. It is very hard to say because I was in the middle of it.

Witness continued : Mr. Jeffreys arrived after him and cleared the station yard. At this time the crowd threw some small stones only at Mr. Jeffreys. Some of them had lathies. When Mr. Marshall arrived with mounted and foot Police they proceeded to clear the Queen's Road.

Witness further said : As they pushed the crowd they receeded towards the Queen's garden and began to throw stones and brickbats. Before they got into the garden they did throw stones.

Q. At this time what was the cause of resentment given to the crowd ?—A. Nothing as far as I know of. We had employed no force except pushing them back.

Q. When did you consider it necessary to give order ?—A. When Mr. Marshall was trying to clear the crowd but was unsuccessful. He then came to me and said that he will have to fire. I said "very well." I told him to give order to fire.

Witness further went on that after firing the crowd ran away. Some of the railing in front of the Queen's garden was torn—how he could not say. As a result of firing two persons were killed. He gave instruction for the removal of the wounded and dead. He was informed of the existence of some Manipuris there. As soon as they were armed, he called on their services. Then he went to the Chief Commissioner to arrange for more military assistance. He then returned at 3-30 p.m and learnt of the disturbances at the town hall. In consequence of that the party of Manipuris were sent. He with General Brockman went there and thence to the meeting in the People's Park where Shraddhananda was speaking. The meeting did take place but there was no disturbance.

Witness said further that the hartal commenced from the 10th and continued onwards. It gradually became threatening and specially on the occasion of the meeting with the leaders in the town.

No actual violence did take place. He was told that they were under the impression that their leaders would be arrested. The emper of the crowd was ugly.—He meant that they were bent on mistchief. They tried to do mischief to the Municipal lamp posts. But there was no use of force. The leaders were going round to prevent the closing of shops.

Q. Did you form any opinion that the crowd was not subject to the influence of the leaders or so-called leaders?—A. They were certainly not.

Q. Were such measures necessary to maintain order?—A. Certainly we did what was absolutely necessary.

In reply to questions put by Mr. Justice Ranken witness said: As far as he recollected he learnt of the existence of the Manipuris about the time the station yard was cleared of the crowd. He remembered that a suggestion had been made to him to bring out the Manipuris to surround the people and arrest the ring-leaders but it could not be done unless they were armed. He took the view that it would be extremely wrong to use troops unless they were armed. Further the Manipuris were men who would be unable to cope with the people of Delhi even if they had rifle and bayonet but without ammunition. At the time he gave orders to fire he persuaded them to disperse.

In reply to questions put by Sir Setalvad witness said: He did not like to be definite as to the number of the crowd in the station compound when he arrived. When the crowd became biggest, it was about 2000. Before Mr. Marshall arrived they had cleared the station compound with the force he had at his disposal. The Police sowars and the British troops cleared the Queeen's garden. At this time the Manipuris were in the station. He presumed the station armoury was in the station. He could not tell the exact time when the Manipuris were supplied with ammunition. They were first moved out at 2-15 p.m.

Q. If you had so desired you could have supplied them with ammunition earlier?—A. I do not know.

Q. You never did that?—A. I do not appreciate your point.

Q. I don't want you to do that. I want the fact from you?—A. What fact do you want?

Q. You did not consider the desirability of supplying ammunition earlier?—A. I did not know that the ammunition was there at all.

Q. Did it strike you that if you had the assistance of these men then with the force you had you could have driven the crowd out of

the Queen's garden ?—A. That idea did not occur to me at the moment.

Q. When the suggestion of firing was made, you did not consider this alternative suggestion that I am putting to you ?—A. Well, there was no time to consider anything. It was time to act immediately.

Q. Stoning was going on for some time ?—A. Yes, in a moderate degree. After we cleared the yard there was some throwing of stones. When the crowd got inside the garden there was a regular fusilade of stones

Q. When Mr. Marshall suggested that fire should be opened you accepted his opinion ? A. Yes, it coincided with my own.

Q. When did Mr. Lawrie make the suggestion of surrounding the crowd ?—A. He might have done that but I do not recollect that.

Witness further said that the funeral procession consisting of many thousands of people and the hartal of the 6th of April passed off without any disturbance. The news of the arrest of Mr. Gandhi and the happenings at Amritsar and Lahore did not lead to any disturbance. The people were allowed to go about in the Chandney Chak as they liked. They did not attack the Police but they interfered with the passengers in the tram cars.

Q. My question is very simple. Please answer it: They did not cause any disturbance except pulling people out of tram cars ? —A. No.

Witness was then questioned at length by Pandit Jagatnarain.

Q. Is it not a fact that for the next 26 hours the corpses were not handed over to the relatives and that it was done only on the kind interference of the Chief Commissioner ?—I could not tell you that.

Q. You were in charge ?—Not on the 31st.

Q. You do not know when the corpses were delivered ?—A. No.

Q. Is it not a fact that the authorities were approached on the 30th and again in the morning of the 31st to get back the dead bodies from their possession ?—A. I do not know that.

Q. Is it or is it not a fact that some of the leaders wanted to see the dead bodies ?—A. That I do not know.

Q. May I take it that your statement—that the shooting by the Manipuris was accidental was based on the statements of these people or of Police officers ?

A. That was the report which reached me.

Witness was then closely examined with reference to the Manipuris brandishing kukris and aiming several guns at Swami Shraddhananda

He replied that he could not tell and that he did not recollect if any report on this point had been made to him. If this was published in the newspapers he must have read it. He had had no reason to contradict it.

Q. Did not Khan Saheb Maniruddin give you the information that he several times asked the crowd to go away and they said they were prepared to go away if their men were released ?—Yes. They would not believe when we told them that the men were not in custody.

Q. These negotiations were going on through a man named Bishenswarup ?—A. Possibly. I do not know his name.

Q. Except this stone throwing was any man, Indian or European assaulted in your presence during the time you were at the Town Hall ?—A. No.

Further cross-examined witness admitted that he was in the midst of the crowd and if they so liked they might have done injury to him. They were shouting but he could not distinguish whether it was "Mahatma Gandhi Ki Jai" or anything else.

Q. You know Hindusthani. From the shouts of the crowd could you make out that there was an incitement to assault anybody or do any other mischief ?—A. I do not recollect hearing anything.

Witness was then cross-examined by Mr. C. R. Das.

Q. You have heard of the movements in Delhi, The National Congress, The Moslem League, The Satyagraha Sabha and such things. You think they are mischievous ?—A. Well, no. I can not say that. Certain aspects of these are mischievous,

Q. The same idea prevails generally amongst the Police of Delhi ?—A. I can not say.

Q. Have you had any discussion with them on this point ?—A. Well not specifically.

Q. At the time when it was suggested to you that the crowd should be fired upon did it strike you that you should send for some of the people who are looked upon as leaders such as Mr. Ansari, Hakim Ajmal Khan and Lala Sultan Singh ?—A. No, it did not strike me.

Q. As a matter of fact, when popular leaders say there will be no disturbance, no disturbance does take place, they have got that control over the populace ?—A. Yes, when attended with that amount of Police force.

Q. There was no disturbance at the meeting of the 30th ?—A. No.

Q. Up to the time when the crowd was pushed into the Queen's Garden nothing serious had happened ?—A. No.

Witness further said that the Sowars came upon them and pushed them back into the Queen's Garden. It was not possible for the Sowars to press them further back as there was the wall. He admitted that the whole difficulty arose out of these people asking the Sweet-meat-sellers to close shops. He did not hear that as a matter of fact the shops had been actully closed and that the railway authorities objected and then there was trouble. He did not re-collect if Mr. Mathews had made statements to that effect. He admitted that the disturbance on the 17th arose out of the arrest of one man Gauri Shanker.

Q: Is it not a fact that a Head Constable Mohammed Afzal Khan deposed before you in Court that they fired point blank and when he gave order to fire all fired ?—A. I have no recollection of it.

Q. As a matter of fact it was the Head Constable who gave the order to fire?—A. No.

The Hon'ble Pundit Malaviya then put two or three questions·

Q. At that moment did you think what the result of firing would be : On the one hand the possible danger of somebody being seriously hit by stones and brickbats and on the other danger of many people being killed as the result of firing :—A. When you are in an arm-chair you can think what is best. But at that time you cannot.

Witness was then re-examined by the President : He repeated he could not say anything about the asking of dead bodies by relatives for he was not in charge then.

Q. In your opinion the situation at the station was such that it was essential in the discharge of your duty to give order to fire:—

A. Yes.

Mr. Jeffreys, Sup. of Police.

Examined by Lord Hunter he said that on the morning of the 30th March he and Mr. Marshall motored to the Chandney Chawk to see to the police arrangements. At a certain point the crowd came up to them and implored them not to drive the car and a man fell at Mr. Marshall's feet. That day in the evening he was asked by Mr, Marshall to clear the station yard. The crowd poked his house and followed him to the Queen's road making a great deal of noise. At 1-45 p. m. he went to Mr. Currie to talk to him. At that time the crowd was creeping forward. At that time an armoured car came which had the effect of stopping the advance of the crowd. Three bricks were hurled from the Queen's garden, one of which

struck him and the situation seemed to him to be very dangerous. After the crowd was pushed into the Queen's garden they began throwing stones. The situation seemed absolutely desperate. He heard Mr. Marshall giving the order to fire.

Witness was then examined by Mr. Ranken.

Q. So far as your experience goes the firing into the air at the clock tower was not very successful?—A. It was absolutely disastrous.

Witness was then examined by Sir Setalvad. He said at the station Mr Currie was right in the middle of the crowd and if they so wished they undoubtedly could have assaulted him. Some men including Mr. Bishenswarup were taken round the place to show that the two men arrested were not in custody. This took some considerable time. In the meantime the crowd was not fighting but they were holding up all traffic. Ultimately they were not able to satisfy them. So far the crowd was quiet.

Q. If at that time you had the 250 Manipuris available you could have overrun the crowd without firing? A: Yes.

Q. What I want to know is this: The disturbances on the 30th 14th and again on the 17th—all these took place when the Police was near—Yes, just as many others weae there.

Q. Now, kindly tell the Committee when you arrived at the station on the 30th did you see any riot at that time?—A: Yes, there was rioting going on.

Witness went on: As soon as he arrived at the station riot began. Before that there was another riot on the contractor's men. He explained the fact of there being riot directly he appeared by saying that he was a known man. At that time there were about 40 sowars in Delhi—not all of them available but in the Police lines.

Q. Am I right in saying that throughout these days starting from the 30th March till the 17th April, there never has been a single disturbance in the city except when the Police was near by? —A. You are absolutely wrong. Every day without exception there was a large crowd holding up traffic, stopping all commerce and industry, threatening the Police, whenever they saw individual Policemen on the roadside. They have been acusing them, boycotting them, starving them, endeavouring to upset all merchandise and causing consideracle difficulty to Europeans—all illegal.

Q. Is it not a fact that the atitude of the Police is against these movements? A. No.

Q Police officers never discussed these things?—Not officially.

Rai Bahadur Sultan Singh

Examined by Lord Hunter witness gave an account of what they did on the morning of the 31st of March and what steps they took to get back the wounded and the dead. He said that on the 31st between 3 and 4 p.m. four or five dead bodies were delivered. There was a crowd of about 10,000 people in the hospital compound who carried the dead in procession, the Mussalmans to the graveyard and the Hindus to the cremation ground. That night they went over to see some of the wounded and pacified the relatives of those who were killed and wounded.

In connection with the hartal on the 6th April witness said that it came about through a misunderstanding and he generally corroborated the statement of Swami Shraddhananda on the point. Witness said that another reason of their not opening the shops was the resentment caused by Col. Beadon's notice. People said those who had been called 'badmashes' were not going to open shops under Col. Beadon's threat.

In answer to Mr. Justice Rankin witness said that on the 16th they were making strenuous efforts for the resumption of business but the people did not want to resume business under compulsion. So on the night of the 16th a request was made to the authorities to keep the police out of sight on the 17th till business was fully resumed. Witness was of opinion that if the police had abstained from interfering for two hours more, as they had done in the morning, there would have been no trouble at all on the 17th.

In reply to Sir C. Setalvad witness said that the resentment caused by Col. Beadon's notice was so great that people complained in his very presence at one of the meetings and Col. Beadon said that it was a mistake in translation, but the people resented all the same.

Examined by Mr. C. R. Das.

Q. Are you aware that the man who was telling people not to open shops was charged under section 506 of the Code?—A. Yes I am aware of it.

Q. You were a member of the Legislative Council?—A. I was.

Q. You were appointed Special Constable?—Yes on the 18th April.

Q. At that time was any other order passed on you—Yes an order was passed requiring us to use puggree and baton and sleep in the Thana which we considered to be very humiliating. We represented matters through friends to the Chief Commissioner, and

through his kind intercession in the evening, that order was rescinded.

Witness here handed in newspaper cuttings containing the order which had been served on them by Col. Beadon. He added that the original order had never been given to them.

Q. When this order was served, in what light did you take it ?—A. We thought it could not serve any useful purpose. It was simply done to humiliate us in the eyes of the public.

Q. In your opinion was there any real necessity for it ?—A. I do not think so. We were helping the authorities, we were running about from morning till evening and we could not have done anything more by being appointed special constables.

Q. When you represented matters to the Chief Commissioner, they were not enforced on you ?—A. We reported ourselves to the Thana, sat there, and then represented matters.

Q. The police baton was not handed to you ?—A. It was.

Rev. Mr. Rudra

(Principal, St. Stephen's College, Delhi)

Examined by Lord Hunter he said.—On the 31st of March he had been out to the Chandney Chawk to see how things were going on. He saw a big crowd and a great deal of noise but no disturbance. On the 6th of April there was hartal again and he thought it was a very wise thing that a meeting was held in the evening. Because otherwise the masses would be without any occupation. He did not see himself but complaints had been made to him that there was a parade of military strength and people felt irritated, On the 17th all the shops had opened, at least in his part of the city, but as soon as news of shooting came they all shut their shops,

Questioned by Sir Chimanlal Setalvad witness said : The Police in Delhi was very much disliked, He could not say if more than at any other place. And the reason was very simple viz,, on account of their dealings. They used always to oppress people. People believed they were being oppressed,

With regard to the feeling of the people towards Colonel Beadon, witness said the strange thing was that Colonel Beadon was liked in one way and disliked in another, and he was known to be a strong and blunt straight-forward man but he had his peculiar ideas of things. The first cause of irritation was given by him some years ago at the time of the Ramlila procession. Since then that feeling had increased against him. Before, the masses of Delhi did not take part in public life, Delhi was as a sort of Sleeping Hollow but

it had completely changed and Colonel Beadon found it exceedingly difficult to reconcile himself to that change but he was a very well-meaning person, as he had gathered from personal contact with him. His notice was a most unfortunate thing and caused resentment amongst the populace. People said they would not open their shops. But for this notice he thought there would have been no hartal on the 6th.

With regard to the enrolment of special constables witness said that he was of opinion that this caused very great resentment. People felt it was a rather humiliating thing. It might be that repectable people in London gladly became special constables but that day was far distant when the Police of Delhi would be as efficient as that of London. In this matter the authorities did not enter into the feelings of the people. At that time he felt exceedingly anxious for he knew if the orders which had been passed on the special constables had been carried out there would have been very great trouble. It was the subsequent orders on the special constables which irritated the people most. At this time it was only through the splendid actions of the Chief Commissioner, Mr. Barron, that the situation was saved.

Witness was then examined by Pundit Jagatnarain.

Q. You heard the address of Shradhananda at the burial ground ?—A. Yes.

Q. Did that exercise a great restraining influence ?

A. I must say, sir, it was one of the very best addreses I ever heard. It seemed to soothe the feelings of the mob which had been excited and it really lifted people right up into a spiritual level. I was able to follow and joined in every word of the prayer.

Q. Is it not a fact that the leaders did their very best to help the authorities?—They did their very best. There is not the slightest doubt about that.

Q. Is it not a fact that the leaders of the city were not in sympathy with the excesses that were done by the mob ?—They were not in sympathy and they tried their very best to keep the shops open, and to make people reasonable.

Q. There was a feeling of indignation at what happened at the railway station ?—Most certainly.

Q. At 4 o'clock on the 31st the dead bodies were given up ?

A. They died at noon of the 30th and from noon till 4 o'clock in the afternoon on the 31st they were not delivered? A.—No.

Q, During this time were the relations demanding the dead bodies? A, They were demanding from the very beginning,

Q, This delay caused resentment amongst the people? A. Yes,

Q, In your view during these days was there any unnecessary display of Military and Police authority?

A. Generally it aroused feelings at the sight of the police. It would have been more advisable if the authorities had kept them in the background—if they were not shown as they were.

Q, Why?

A, The relation between the police and the people in Delhi is not good and it was specially so during those days.

Q, In Delhi are they very much hated by the people?

A. Yes, during those days they were very much hated.

Q. Supposing no Military or Police had been called out, would order have been preserved?—A. Only on two days difficulties arose, the 30th and the 17th and in spite of their dislike people kept quiet. On other days the Police did not interfere and nothing happened.

Q. Could order have been maintained without the Police on the 30th and the 17th?—A. In my view nothing would have happened if the Police and the Military had not been there, except the breaking of the glasses at the railway station on the 30th.

Q. Do you mean to say that the presence of the Military and the Police caused this?—A. If the Police and the Military were not there no firing would have taken place and all that would have taken place would be the breaking of a few glasses in the station. There would have been nothing more.

Q. To your knowledge were the people irritated for the expression used in that notice?—A. When I was asking people to stop the hartal many told me, as they had been called budmashes, they would not open shops.

Q. Your efforts to get the hartal ended were not very successful?—A. No.

Q. Why not?—A. The reason was there were other people who were trying to induce people not to open shops and when we found this out we organised volunteers and engaged other men to tell people to open shops and ultimately we were successful.

Q. Was there any foundation for the rumours that the leaders would be arrested?—A. I or the other leaders did not share that view but the people thought that when we met at the Town Hall we would be arrested.

Q. The news of Amritsar came and that contributed to the spreading of rumour ?—A. It now seems to me that that was the real reason.

Dr. Ansari

Examined by Lord Hunter he said that they did their best to end the hartal after the 10th. of April but their efforts were only partially succesful owing to the fact that the people themselves were much averse to ending the hartal and there were contributing causes, for instance the arrest of the Mohatma Gandhi, and the news coming from the Punjab. At the meeting of the 13th. the Deputy Commissioner, Col. Beadon said to them that the hartal could not be allowed to go in that way and that they would take steps if things continued in that way. They, the leaders, did not think there would be any disorder unless there was interference on the part of the Police.

Dr. Ansari said he and the other leaders never approved of the attack that had been made on the Police officers who were discharging their duties. He admitted that the situation in the city was giving the authorities considerable anxiety and he thought they were sincere, but they made some mistakes in dealing with the people. They desired to restore order in the city by the use of force.

Q. Do you think there was a show of military force ?

A. It was not that which they objected. The thing was, in view of the state of the public mind the patrolling of the streets was not desirable because it produced just the opposite effect.

Q. I thought from the point of view of the people of the west, the patrolling of the streets seems to be an indication that the authorities intended to maintain order ?

A. Yes, sir. It is not that that I question but it is the effect which was produced on the mind of the masses and it must have been known to the authorities that it produced such an effect.

Q. If the masses were disposed to be peaceful and not to indulge in violence why should they object to it ?

A. They felt that they had been treated badly and instead of adopting a conciliatory attitude, there was a show of force and that was why they resented it.

Q. Do you mean to suggest that the Military or the Police took up a provocative attitude ?

A. I am not alleging that at all.

Q. I am rather struck with the readiness with which rumours are accepted here ?

A. I do not think there was anything peculiar in them. Rumours start almost everywhere.

Q. In this case there have been very many arrests though the rumours seem to have been unfounded ?

A. I think the arrest of the leaders at Amritsar was responsible for this.

Q. Have you any doubt that the men in the crowd were opposed to the opening of shops ?

A. I had myself to reprimand people many times who, I knew, did not want that shops should be opened.

Q. Did it not arise from the disorderly portion of the crowd ?

A. But I must say one thing : I did not see these people using any force or threatening people or doing any such thing.

Q. It might have been done and you might not have seen it ?

A. But we were all working all the time in this connection and if it was so, it must have been brought to our notice.

Q. As a law-abiding citizen do you object to a man who was preventing others from closing their shops being arrested ?

A. The arrest itself in normal times would not be objectionable but at a time like this when the least little action was liable to be magnified, this action on the part of the authorities was very injudicious.

Q. But if you don't arrest one man you encourage hundreds of others ?

A. But on that day all the shops in the place had already been opened and business was going on and there was no fear of anything untowards happening. In the morning also we saw several people so telling people but we talked to them and got them dispersed and nothing happened.

Q. You had some trouble in connection with the Ramlila affair ?

A. Yes, the trouble arose in consequence of the authorities being very much unfavourable to the Hindu community and they resented it and observed hartal for some 10 or 11 days.

Q. It was I believe in 1916. A. Yes.

Haziq-ul-Mulk Hakim Ajmal Khan

Examined by Lord Hunter the Hakim Saheb said that he did not take the Satyagraha vow. He had no personal knowledge of the events of the 30th. They asked the people not to observe hartal on

the 6th but the people in their zeal for being one with the rest of India did observe. After the 10th he with Dr. Ansari and others tried their best to get the shops opened. The firing of the 17th he saw with his own eyes. While he was coming out of the Town Hall he saw a number of men coming from the Billimoria side at a running pace and they were fired upon by a number of men, whom he thought were Policemen, probably to prevent them from coming to that side. At that time he did not see anyone throwing stones. He could not see if they had anything in their hands. He did not see anyone being killed or wounded. His impression was that firing had been done over their heads. The officials within the town hall had not given the order to fire and he did not see or hear anyone to give the order to fire. Further questioned Hakim Saheb said he saw the gun, he saw the men and the firing.

Questioned by Mr. Justice Ranken witness said that Dr. Ansari had accompanied him to the town hall and was at that time within.

The Hakim Saheb was then examined at great length by Sir Chimanlal Setalvad. He said he and his famliy were the oldest inhabitants of Delhi. He exercised, he said, some influence over the people. His idea was that if the incident at the station had not happened there would have been no trouble in Delhi at all.

Q. Can you tell me what were the causes which made it possible for these events to happen ?

A. Since Delhi became the Imperial city political movements began. Through the medium of newspapers, associations and meetings attempts were made to awaken the people in a legitimate manner and efforts were also make to make people understand what was going on in the world.

Q. What was the attitude of the local authorities towards these movements ?—A. They did not like these movements.

Q. What do you mean ?—A. The Chief Commissioner, I mean Mr. Hailey and the responsible officers of the Police did not like these movements.

Q. Naturally they did not like the leaders who started this movement in Delhi ?—A. Yes.

Q. They did not like the idea of the Congress being held here ?—A. They did not so far as I am aware.

Q. Did this create a tension between the authorities and the public and their leaders ?—A. Yes.

Q. Then came the Rowlatt Bill agitation following on that ?

A. Yes, this came along. But in the meantime, we had great

difficulty in holding public meetings and that also irritated the people.

Q. Difficulties were created in the way of your getting places?

A. We were not allowed to hold meetings at places where we thought we should do. Since the Seditious Meetings Act was promulgated we could not hold meetings but even before that, we had great difficulty.

Q. Since when has Colonel Beadon been Deputy Commissioner?—A. He had been here before Delhi became an Imperial City. His administration of Municipal affairs has been very harsh and people were very much annoyed in connection with his action with regard to the Ramlila procession. Various prosecutions were started, one was against Mr. Asaf Ali and another against Pundit Nekiram, for addressing some meetings. But they were acquitted.

Q. All this had produced a considerable tension between the authorities and the public?—A. Yes.

Q. Then in connection with the Rowlatt Bills, there was a general opposition throughout India to these Bills?—A. Yes.

Q. It was opposed by almost all the members of the Indian Legislative Council?—A. Yes.

Q. And in connection with that there were protest meetings in Delhi?

A, Yes. I took part in those meetings.

Q. What was the attitude of the authorities with regard to this matter?

A. I have no particular knowledge as to their attitude with regard to this matter.

Q, As a result of that the people were prone to view with suspicion any act of the officials?

A, It had been so for sometime—for a month or two before March.

Q. Do you think that the tension of feeling between the authorities and the people contributed in some measure to the unfortunate events of March and April?

A, Yes, in some measure it was one of the factors.

In reply to further questions the Hakim Saheb gave an account of the negotiations which passed between the authorities and the leaders with regard to giving back the dead bodies of persons who had been killed on the previous day, the 30th, March.

LAHORE SITTING—AMRITSAR EVIDENCE.

Mr. Miles Irving,

(Depy. Comm. of Amritsar in April 1919)

Examined by Lord Hunter, he said that there was a succession of meetings at Amritsar during the months of February and March. The agitation started by Satyapal and Kichlew invited all Hindus and Mahomedans in politics. Two members of the local Congress Committee were on their trial. There was "hartal" on the 30th. March but there was no disturbance. The local Congress Committee was against the observance of "hartal" on the 6th. of April but at the last moment Kichlew and Satyapal came and brought about the hartal. He warned the Officer Commanding and kept troops in readiness. But no action was found necessary. The Police acted with great forbearance. There was no attack made upon them and they avoided coming in contact with people. After the 6th of April things seemed to be working up to some kind of mischief and the leaders were dissipating the mob with a view to, as he thought, some kind of concerted action to paralyse Government. But they did not encourage any immediate act of violence. On the 9th. April, when the Ramnabami procession was passing along the Allahabad Bank where he was seated, the mob was very civil and when they saw witness, the band in the car played "God save the King". Afterwards only a number of Mahomedan students made some demonstration by clapping hands and marching like Turkish soldiers.

Deportation of Kitchlew and Satyapal.

Mr. Irving then described the steps to deport Kitchlew and Satyapal. They were invited to witness's bungalow and were removed in a motor car to Dharamsala, on the 10th of April. He then went to office and had been there only for about half an hour when Mr. Plomer, (D. S. P.) came riding with the news that crowds were collecting in the Aitchison Park. He found the telephone not working and then went out on horse-back. At the foot of the rampart of the foot-bridge (which leads to the Civil lines) he found a picket of 2 Indian and 3 British roldiers and in front of them was a very angry crowd. He then went away. In the meantime the crowd had to be fired upon and was pushed back over the railway line. He came back and found a very threatening crowd facing a small picket. He was rather reluctant to give order to fire but ultimately had to do so. 70 shots were fired. This was at about 2 P.M. By that time the National Bank had been completely destroyed.

The Jallianwalabag Meeting.

Witness then narrated the subsequent events of the loot and destruction of property, Government and private. Then on the 11th and 12th. there was practically nothing. On the 13th he said the situation continued to be critical.

Q. What was the attitude of the mob towards the authorities?

A. That the "Sircar" was at an end. The general rumour was, as I was informed, that Government was no longer in control of the situation.

Witness further said: They proclaimed from 18 different places that no meeting would be allowed. He then narrated the gentle (!!!) measures that had been taken to disperse the meeting at the Jallianwalabagh. He added that as a result of this shooting the whole rebellion (!) collapsed. Not only was the crowd fired upon and dispersed but its effect was felt throughout the district. People at first believed that Government was paralysed and could do nothing but this came as a disillusionment.

Q. Can you form any opinion as to the intention of the mob with reference to the Government?

A. The mob seriously thought that it had a chance of beating Government. One of the ring-leaders used to say 'let us fight it out.' That was the feeling from the 10th to 13th.

Witness said further: After this there was nothing of a serious nature reported. Various false rumours were spread but he received a great deal of local help in counteracting these. Martial Law was proclaimed on the 15th. He had not applied for it.

Q. What was your opinion as to its necessity?

A. I think it was quite necessary. As a matter of fact, it "ipso facto" existed from the time the Military took control of the situation. It was very necessary.

Q. Under the Martial Law what was your position as Deputy Commissioner?

A. I regarded myself as adviser to the Military Commander and I was also reporting to my own superiors. I would not ask for power to be divided—one or other must be in charge.

Q. Give us your view as to who was really responsible for these disturbances?

A. The people of Amritsar was responsible and people who raised the feelings of the mob to the pitch they did.

Q. You mean moral responsibility?—A. Yes.

Q. In that sense you mean people were irresponsible although it was no part of their intention that the acts of violence should follow?

A. Well, yes. I told Dr. Kichlew that he was setting in

motion forces he could not control. I do not think any of these people at any time intended violence. They intended to fetter Government so as to submit to their demands.

Witness said further that one or two of the men arrested were members of the Arya Samaj and as an organisation it was more sulky but he had no report against them. The people who did the looting were Kashmiri Mahomedans, Hindus, Kshatriyas and others. He strongly suspected they were organised under leaders.

Q. During the rebellion was there any intention of special hatred towards the Europeans?

A. Yes, it took that form from the point the crowd was turned back. It assumed the shape of revenge on Europeans.

Q. Was any hostility shown to Government servants as such?

A. No. The Police were doing their duty in the city but I have no records of Government servants as such being attacked.

The witness then described the various instruments which had been used by the mob to destroy property. He also gave a list of those who had been appointed by the Military Commander to try certain cases.

He said a number of European children had been sent to the hills by the Military Authorities and the total amount expended on their passage and for their stay there and return was Rs. 30,000.

The witness was then examined by Mr. Justice Ranken. He said: There was no such idea as to attack Europeans during the two days of the hartal. He passed through the city quite unattended and so had Mr. Jermain, the Municipal Engineer. There was persistent agitation upto the middle of March in course of which inflammatory language had been used but there was no incitement to riot or anything of that sort. There were remote suggestions to violence when Kitchlew spoke of "using our hands" but people often speak more violently than they mean and it was not their opinion that immediate violence was intended. The leaders were against violence at the moment.

Satyagrahis and Violence.

Q. So far as the Satyagrahis themselves are concerned is it not the case that they deprecated violence? A. Yes.

Q. Who were the chief Satyagrahis at Amritsar?

A. I should think Kitchlew and Satyapal. But they were not distinguishable from the general agitators.

Q. I suppose you know the principles of that particular movement as protessed are contrary to violence rather than in favour of it?

A. Yes, contrary to open violence. But any form of passive resistance would eventually come to active violence.

Q. Can you point to any fact which suggests that in the

beginning of April there was any plot on the part of any stratum of society in Amritsar to encourage violence against Europeans or to upset the local Government ?

A. I cannot point to any existing before the 10th of April. The only thing that comes in my mind is the extraordinary speed in which various acts of violence were committed, almost within an hour. This appears to be the work of some form of organisation.

Q. Would you tell me which are the acts of violence ?

A. Three banks which were fairly close together, a church and a school, were attacked and in another direction the telegraph office was attacked the very first thing. Then there was an attempt to cut the Telegraph line which rather marks an intelligence.

Q. But why do you think that the attack on the bank was evidence of a previous organisation ?

A. I am not saying that it is. I am putting before you these facts which are compatible with some kind of organisation down below. It does not of course follow that because there was an attack on banks therefore there was an organisation but there was an organisation existing and we knew of it at the time of the Municipal elections.

Q. Would it not be consistent with facts that the protest in force against the deportation of Kitchlew and Satyapal spontaneously developed into violence and murder and incendiarism ?

A. Yes, I think it spontaneously developed : it flared up in a moment. I do not think people went out with that design.

In answer to further questions witness said immediately before their deportations Satyapal and Kichlew were constantly addressing people. The order of deportation came from above and he was not given any specific reasons. These steps were not initiated at his request for he had come only recently and had not felt his feet about at that time. As a matter of fact he did not make any recommendation, he was simply reporting things as they were. At one time he thought he could get Kichlew to be reasonable. He had as a matter of fact quite early asked (the Government) to suspend action against Kichlew to see if he could bring him round. He knew nothing about these orders being in contemplation before he received them. He only knew that their conduct was under consideration of the Government. On the evening of the 9th when he got the orders of deportation, he recognised the possibility of some disturbance due to the deportations and provided for three times but unfortunately ten times happened.

Events of the 10th.

In reply to questions put by Sir Chimanlal Setalvad witness said that he was not in any manner connected with recruiting from 1909 to 1917. He had no knowledge as to how recruiting

was done. He was during that period in the Secretariat. At the time he came to Amritsar in February, Dr. Satyapal and Dr. Kichlew were fairly popular leaders and their popularity grew as the agitation grew.

Q: Therefore their deportation caused resentment in the mind of the public?

A: Well, it might or it might not. When they arrested Lala Lajpat Rai in 1907, the agitation absolutely collapsed.

Q: That may have been so. But on the 10th April in 1919 this was so?

A: Yes, I was quite prepared for it. I was taking all possible precautions against it.

Q: When the crowd came on the first occasion near that bridge, they were coming to your place?

A: Yes, they were coming to my house I understood. They were coming not to make any ordinary protest. When people come they come properly clad. But these men had put off their pugress and shoes and they intended violence.

Q: It might have been the sign of mourning?

A: If it was mourning, it was violent mourning.

Q: Their primary object was to come to you in connection with the deportation?

A: Certainly in connection with it.

Q: On that day were you present at the two firing?

A: No, only at one. I was present at the second not at the first. I refrained from giving the order to fire because I recognised two men trying to disperse the mob. They did their best to disperse the mob.

Q: One was Mr. Gurudayal Singh?

A: Yes, I met him in court but otherwise I did not know him.

Q: He tried to restrain the crowd at considerable risk?

A: Yes, I observed that myself.

Q: This gentleman was arrested on the 29th and kept in custody for a month and a half? —A: Yes.

Q: He was brought in handcuffs to Lahore and taken over to various palces?

A: That I do not know. The investigation went out of my hands. I know he was brought to Lahore.

Q: He was put up for trial?—A: Yes.

Q: As a result he got acquitted?—A: Yes.

Q: This affair created considerable resentment in Amritsar?

A: It might have but I do not know. Gurudayal Sing said that people laughed at him and said that as a reward he got arrested.

Q: General Dyer arrived on the morning of the 11th?

A: Yes, evening of 11th. When he came the Commissioner handed over the administration to him.

Q: I want to understand this: "the Commissioner told the Officer commanding that he was to consider himself in charge of the Military situation and take whatever steps he thought necessary to establish civil control".—Was this said to the Officer Commanding or to General Dyer?

A: It was said to both, to the Major commanding the troops and to General Dyer.

Q: At that time Martial Law had not been proclaimed?

A: No, but it existed.

Q: I want to know what he means by "being in charge of the whole thing." Is it that Military law had been established?

A: It was an announcement of the fact that the Civil administration was unequal to the task of preserving peace.

Q: For that they need not have handed over the administration to the Military?

A: The statement is a confession of the inadequacy on the part of the Civil authorities to maintain the King's peace any longer

Q: It looks as if the Civil authorities did not exercise any control but left everything to the Military?

A: The Military officers were directed to preserve peace. It was not a case of the Civil authorities taking the help of the Military. You cannot for example ask soldiers to shoot. You could tell the soldiers that you are unable to carry on and they should at their discretion take whatever measures they thought necessary.

Q: The effect of it was to proclaim martial law on that date?

A: It was so practically. It announced the existence of Martial Law under the old common law.

Jallianwala Bag Meeting—

Q: The Seditious Meetings Act was extended to Amritsar on the 13th?—A: Yes, on the morning of the 13th.

Q: The proclamation that you referred to was with reference to this?

A: Yes, under the Common Military Law, not under the Seditious Meetings Act.

Q: 13th was the day of the great Baisakhi festival?

A: Yes.

Q: Many people from outside come to Amritsar on that day?

A: Yes. I think on that particular day people came not to a very large extent because civil pickets stopped villagers and advised them not to come. In the ordinary course they come.

Q: You have seen the place where the meeting took place?

A: Yes, it was pointed out to me.

Q: It is a somewhat low lying place?—A: Yes.

Q: It is surrounded by buildings?—A: Yes.

Q: There are four small openings to the garden?

A: There are four small and one fairly large.

Q: The actual place where the meeting was held was at the southern extremity?

A: Yes. I am not sure of it.

Q: The place where the Military came and stood was at the north?—A: Yes.

Q: On a raised spot?—A: Yes:

Q: That place where the military stood was at a considerable distance from where the meeting was held?

A: Yes, a fair distance. I was not there at the time but it was pointed out to me.

Q: It has never been suggested that the meeting either threatend the Military or did anything of that sort?

A: I do not know whether the Military will suggest that or not.

Q: In the official papers, so far as you have been able to see, no suggestions have been made?

A: I could not really have seen all that.

Q: It has been admitted that the crowd was not ordered to disperse before they were fired on?

A: Again I must tell you that I have not seen all those papers.

Q: The statement is: "He did not tell the people that if they did not disperse he would fire but at once proceeded to disperse the crowd by firing?"—A: Yes.

Q: Firing was done at once, as soon as the Military came and saw the meetin g,and according to your information about 500 were killed?—A: Yes, more might have been wounded.

Q: I understood you to say that the object of this was to strike terror into the heart of the people?

A: I never said so.

Q: You conveyed the idea when you say that when this was done the whole rebellion collapsed.

A: No. I was speaking of what actually happened. I was not attempting to read the situation but I told you as a fact the rebellion collapsed.

Q: So far as you know, it has never been suggested that the circumstances on the spot were such as to necessitate firing?—Irrespective of the fact that it was a prohibited meeting?

A: I have not had any correspondence on the subject.

Q: I put it to you again: there was the idea that Government was paralysed, that Government would do nothing: in order

to dispossess the public mind of this idea you thought it was necessary to resort to ruthless firing : If what you have said means anything it means that ?

A. I do not know. I have told you what happened as a matter of historical fact.

Q. You put that as a justification for firing.

A. It is not my business to justify. I give you the actual fact.

Q. Was it not really this : that because there was this idea that the Government was paralysed, that the Government could do nothing, therefore you thought it necessary to make the people realise the truth by killing 500 men at one stroke ?

A. I do not know what was in the mind of the Military officer who carried out this action. I have simply tried to give you fact as I know them.

The Crawling Order—Flogging and Salaming.

Q. You have told us that crawling order was issued on the 20th ?—A. Yes.

Q. There are house on both sides ?—A. Yes.

Q. A large number of them ?—A. Yes.

Q. Had you any information as to what had happened to those persons who lived in these houses ?

A. They were expected to stay at home.

Q. If they had wanted to go out they had to conform to this order ?—A. Yes, I think so.

Q. Is it not a fact that certain persons who were under arrest and who were taken through that street had to crawl through ?

A. Yes, I understand that was what happened. I do not know who those people are. I was told it was accidental and was not intentional.

Q. Can you tell us who they were ?

A. I should think the Military might be able to tell you. They were in Military custody.

Q. You have told us there was flogging in the streets ?

A. Yes.

Q. Is it true that a regular flogging platform was put up in the street ?—A. I suppose there was.

Q. Was there an order requiring people to salaam every European ?

A. No, there was an order to salaam the General when he passed but no order as regards Europeans as such.

Q. That is not true ?

A. I have never heard of it. I think the General brought it to my notice and to the best of my recollection, the order was as regards the General Officers in uniform. But I am not quite sure about this.

Q. Were people punished for not obeying?

A. I think some people were punished by the Military authorities with confinement for a short period.

Q. Were they flogged?

A. I think some people were given 10th days imprisonment for not salaming. It was a military question.

Q. You say that on the 11th and the 13th the mob was in possession of the city: why do you say that?

A. Because they were. We covered no more of the city than we could march into.

Q. When you say that people said that there was Hindu-Mahomedan Raj, did you hear that yourself?

A. No, people said to me that was being said in the city.

Q. Certain tribunals were constituted prior to the declaration of Martial law?—A. Yes.

Q. May I know under what authority.

A. I am afraid I cannot tell you that.

Q. I mean the summary courts?

A. Yes, I can't tell you.

Q. Have you any statement to show how many people were arrested and never brought to trial?

A. They were all brought to trial. There was of course one class of people who were brought in very largely—a class of wandering Sadhus. Their cases required to be examined and when it was done, those against whom nothing was found were let off.

Pundit Jagat Narain then examined witness:—

Q. Was not recruiting one of the predisposing causes of the trouble?

A. I considered recruiting and I considered against it as a contributing cause for the reason that trouble came from people who had not been recruited. I said it came neither from the people who had been recruited nor from the district where recruiting was vigorous. (Questioned further) I said it was a serious contributing cause and people who were recruited neither rose nor complained.

Q. Was not the income tax raised very high at this time?

A. Yes, under the new Act there was a considerable rise.

Q. Am I to understand that apart from Amritsar, those persons who were affected by recruiting, did not form part of the mob that got out of hand?—A. Yes.

Q. But that is not applicable to any other district?

A. I am not in a position to say.

Q. Is it not a fact that every city and every district had to furnish a certain quota of men?

A. I do not think any quota was asked for from Amritsar.

But I think they were asking for a district quota and the people were asked to find those men.

Q. If there was any deficiency—If any Lambardar failed to supply the requisite number ?

A. He was often suspended and a better man appointed.

Platform Ticket Agitation.

In reply to further questions witness said that at that time people had made a complaint of the fact that no platform tickets were issued to Indians whereas Europeans had been allowed to enter the station without any ticket. Witness said this action by the railway authorities was on account of limited space. The people said that they were not being treated like human beings.

Q. What is the worst that you can say about this agitation ?

A. The worst that I could say was that it was an agitation. But really the worst of it was that the agitators were trying to show to the people that the Government were acting in a manner regardless of the interest of the people and without proper consideration towards the people.

Q. You thought that idea was wrong ?

A. Yes, it was a matter which concerned the railway authorities only.

Q. You find all over India, wherever there is the system of platform tickets, Indians are compelled to buy them and Europeans are exempt from it ?

A. I have very little experience of it.

Q. Was there anything of the nature of anti-Government or anti-European feeling between the 30th, March and 6th, April.

A. There was a good deal—I cannot say anti-European but it was anti-Government.

Q. Am I to understand that this was the feeling of the crowd ?

A. Well, as far as I can interpret their feelings from their actions.

Q. Will you kindly say 2 or 3 sentences as to what was said ?

A. I have not come armed with extracts. Somebody said the British are like monkeys.

Q. Supposing one dislikes a certain action of the Government or certain act passed by Government and he wants to have it repealed : he agitates for it : and if he tells in his speech this action of the Government is wrong, would you call this agitation anti-British or anti-Government ?

A. You will see that from the actual extracts that will be placed before you.

Q. You had seen those extracts : so I want to have it from you.

A. You will see the cartoons : one of which was a black serpent and it was said this was the reward which the people got for all their services in the war.

Q. Do you think it was confined to Amritsar alone or that feeling was shared by people all over India ?

A. It was certainly universal but it nowhere took such a violent form as at Amritsar.

Q. On the 6th, nobody was maltreated ?

A. No.

Q. Then on the 9th, the day of Ramnabami, were not the proceedings quite orderly inspite of the fact that the Police were very few in number —A. Yes.

Q. This was the occasion when people shouted Hindu-Mussalman ki Jai and there was fraternisation ?—A. Yes.

Q. Are you or are you not in favour or Hindu Mahomedan unity ?—A. It depends on what subject they combine.

Q. If they give up religious animosity and fraternise ?

A. I am certainly not against it.

Q. Will you favour such a thing ?—A. Yes.

Q. You will praise those who are working for it ?

A. Certainly.

Q. And therefore when you find that Hindus are taking water given by Mahomedans and each joining in the other's festivals, is it not a matter that should give you entire satisfaction ?

A. Well, it would give entire satisfaction, if I did not fear the motive underlying—it had a sinister purpose behind it.

Q. You did not like their joint political action ?

A. I have no objection to that.

Q. You did not like that they should give up their quarrels and take up a common attitude with regard to certain political matter ?

A. I do not object to it but the fact was that they converted their religious ceremony into a political affair.

Q. Will not that very fraternisation on religious occasion be evidence of the sincerity of the people ?—A. Yes.

Q. You are not one of those who believe in the principle of divide and rule ?—A. No.

Witness further said he had noticed that in the Montagu-Chelmsford Report it had been said that the one proof that Indians were unfit for complete self-government was the quarrel of Hindus and Mahomedans. And if the people tried to erase that blot, that was to be encouraged. That would be a political movement but that could not be helped.

Why were Drs. Kichlew and Satyapal deported ?

He said that Drs Satyapal and Kichlew had not done anything in public to contravene the orders served on them.

Q. I want to know what is the immediate cause of their deportation ?

A. I am not well in a position to say that. But there is one thing that I represented to Government : I did not make any recommendation but I said that it showed that Kichlew brought about the 'hartal' of 6th April in 8 hours time.

Q. But that is not a serious thing for which a man should be deported ?

A. No, my recommendation was not the cause of their arrest. As a matter of fact, inspite of the fact that they were prevented from making public speeches, they were talking in private meetings and making people hostile.

Q. You had no knowledge of it ?

A. Kichlew himself told me his intention was to change the form of Government but he wished to do it by constitutional agitation. But I pointed out constitutional agitation very much differed from what he did.

Q. I just want to know whether between the 19th March and 10th April there was anything objectionable to justify the order of deportation ?

A. Well, he practically ordered the hartal on the 6th. This was one thing.

Q. But so far as the orders were, did he do anything to contravene them ?

A. So far as I know—no.

Q. From the 6th up to the time they were sent for and deported there was nothing tangible from which you could draw the inference that the crowd would have recourse to violence ?

A, I did not get any such definite information.

Q. Is it not a fact that on many occasions when the common people feel aggrieved over some municipal assessment or municipal order they go in a body to the Magistrate to lay their complaint before him ?

A. Yes, they could come in a respectful manner.

Q. But on the 9th you were not aware of their demeanour ?

A. No knowledge of the future.

Q. If not, why did you conclude that on the 10th the crowd would come to you in a violent mood ?

A, I was not going to take any chance.

Q Can you tell the committee of anything done by the crowd from which a reasonable inference could be drawn that they would be violent ?

A. Well, they kept their hands off when thy saw the Police. They were sulky. From what happened elsewhere I thought it was quite likely that the budmashes of Amritsar would attempt to over-awe the authorities—at any rate, the chauces would be good enough ; the mob is always volatile.

Q. Under what law you were justified in declaring the mob to be an unlawful assembly ?

A : Section 188 of the Cr. Procedure Code (loud laughter)

Q : A body of 5 men passing the railway line becomes an unlawful assembly ?

A : I think I have given you the wrong section.

Q : Is there any report to show that any of the constable or the soldiers who were stationed there were injured by stones on the 10th ?

A : If there was any report it is in Military records. So far as the Police was concerned, there was no paper.

Witness further said the number of the crowd on the first occasion must have been 2 or 3 thousand—it was a very large crowd coming in a hostile manner. Of the five men consisting of the picket one had a revolver and the other a rifle. They fired on and 3 men were killed. He admitted that before any firing took place, the crowd passed along the National Bank and other buildings but they did not do any mischief.

Q : So far as the second firing was concerned, is it not true that the two pleaders who were trying to get back the mob told you not to fire ?

A : That was when I did not give order to open fire. That was at the foot of the bridge and I said I could not wait a moment longer.

Q : Is it true that certain shots were fired from the Telegraph Office side, when these pleaders were endeavouring to persuade the mob to retire ?

A : Yes, I did hear some shots. Very likely the men there were in serious danger.

Q : I think you will admit that up to this time the crowd or the majority of them had no lathies in their hands ?

A : I did not notice any lathies in their hands.

Q : It was when they had been driven by the first volley that they divided themselves into three groups and collected bamboos and whatever they could get ?

A : Yes, that was the crowd who, as you suggest, were peaceful. They went and burnt the bank and murdered Mr Thompson.

Q : Do not think that I in any way justify their action. What I want to know is that 5 or 6 persons were shot before Mr Thompson was murdered ?

A : That is absolutely untrue.

Q : Why do you say that ? You rely on Police reports ?

A : These facts came out in the trial, I can only give you my recollection.

Q : From 5 P. M. on the 10th onwards the crowd did nothing ?

A. There was nothing left for them to do.

Q. After 5 P.M. on the 10th there has not been any attack on any person or property.

A. Some Indian gentlemen will come and tell you that they feared that a number of houses were in great danger.

Q. I am not talking of those ultra-loyalist. Were you in possession of facts that any person or property was injured after 4-30 P.M. on the 10th upto the 15th.

A. I cannot tell you. After the arrangements we had made they could not do it. My impression is that after the 10th the looting of the National Bank was going off and on : it did not go on one day only.

Q. Can you give any tangible evidence that property was looted ?

A. I cannot give you any.

Q. Therefore when you made that statement that there was a critical situation because there was serious danger of Amritsar being looted, what are the facts on which you based your opinion ?

A. The people themselves were trying to organise themselves to resist the invasion.

Q. Is it not because the Police had withdrawn and they wanted to keep watch and ward ?

A. I do not know as a matter of fact. But I will take it from you. (further questioned) My information was that there was apprehension of the looting by villagers. It was based on reports— I cannot remember if I have got any written report.

Q. People placed before you all sorts of hearsay reports and your opinion is based on that ?

A. I think there was more than hearsay ; but very largely that was the source of my information at the time.

Q : You have spoken of excitement during the Municipal elections : Don't you think it appears everywhere ?

A : I shall think it objectionable wherever it occurs.

Q : You do not connect them in any special manner with what subsequently happened in Amritsar ?

A : To a certain extent, yes.

Q : You have no objection to this political activity ?

A : I have no objection to any political activity as such.

Q : In your statement you say : "We found Hindus attend-

ng Mahomedan meetings and Mahomedans being given places of prominence in Hindu meetings : the chief link between the two being always this Dr. Kichlew". Was it disliked by the authorities ?

A : I have no objection to it. I have simply stated it as a fact.

Q : Was it looked upon with disfavour ?

A : It was not objected to in any way. I noticed it as being unusual.

Q : It had nothing to do with his deportation ?

A : Not to my knowledge. Certainly not.

Q : In para 13 you say : "The situation had however begun to take a threatening aspect. It was not that any immediate violence was apprehended. On the contrary, the policy of the brains behind the movement appeared to be directed in the opposite direction. Their intention was to avoid collision with the Police"—Who were the brains ? Kichlew and Satyapal ?

A. I did not know then and I do not know now.

Q. You did not know then to whom you referred as the brains of the movement ?

A. At the time when I wrote this it seemed to me that there was some directing brain behind but I did not know who it was.

Q. You are still of that opinion that their object was to direct the movement in a direction opposite to violence ?

A. Yes.

Q. What do you mean by threatening aspect ?

A. They form collective passive resistance which wanted to paralyse Government.

Q. Why was it considered threatening on that date ?

A. Because such was the likely result that I anticipated.

Q. The only thing was that there was a general 'hartal'—nothing else ?

A. I did not mean a general 'hartal.' I meant persistent attempt to misrepresent Government, wild rumours misrepresenting the actions of Government, the ignorant people were getting more and more excited and every possible feature of the situation was such as to cause that idea to my mind.

Q. This was going on for the last two months ?

A. It was getting worse and worse without any sign of stopping.

Q. Was there during these days some special measure of misrepresentation ?

A. There were the grossest slanders on Government.

Q. In your opinion all sorts of passive resistance were to be deprecated ?—A. Yes, any collective thing of the kind.

Q. Up to that time when you wrote this report, you had no

evidence before you that there were any plan of violence ever contemplated by the brains behind the movement ?

A. As a matter of fact the matter was 'sub-judice'—I was really thinking of the conspiracy cases then going on.

Q. Anyhow at the time you wrote this report you had no positive evidence before you that any violence was contemplated ?

A. There is a difference between having no evidence before me and not coming to a conclusion. I refrained from coming to a conclusion as the matter was going on before a court.

Q. You said it was still doubtful ?—A. Yes.

Q. Therefore it was doubtful so far as you were concerned ?

A. It had not been decided.

Q. So far as you were concerned, were you doubtful or not ?

A. I certainly had not got all the evidence by any means and therefore I had not made up my mind.

Q. You had a conference on the evening of the 9th ?

A. Yes.

Q. Were any drastic measure suggested ?

A. No drastic measures were suggested. There was deep indignation but no idea of revenge. From the 10th the matter was in the hands of the Military authorities.

Communication with the Punjab Government.

Q. Was the order of deportation received by post ?

A. It was received through a Police officer.

Q. During these days between the 6th and 10th was any communication received from Lahore by you or anybody to your knowledge ?

A. I do not remember to have received any written order. The Commissioner was down there giving me advice.

Q. You received no instructions from the Government of Punjab ?

A. To the best of my recollection, no.

Q. Did you consult Government officials between these days?

A : I consulted the Commissioner, nobody else.

Q : Did you do it by letter or when he came down there ?

A : When he came down there.

Q : Upto the morning of 10th there had been no sign of enmity towards Europeans as such ?

A : I had not seen it as such.

Promulgation of orders.

Q : You issued certain orders ?

A : Yes.

Q : These orders were sent the morning of the 10th to the 3 Magistrates ?

A : Yes, I gave them personally.

Q: Was this promulgated amongst the people?

A: There was no time.

Q: They were not promulgated amongst the people?

A: They were promulgated by the Magistrates who met the crowd, as far as he could. He could not himself hear as the crowd would not listen to them.

Q: You thought that one hour before you declared the assembly unlawful, it would try to cross the line?

A: That is hardly the legal way of putting it. I issued the order under section 144, that any person who disobeyed any order becomes an unlawful assembly. I had no time to look at the rulings.

Q: You think that section 144 applies to the case?

A. I have not suggested it did. I have not had it argued before me.

Pandit Jagatnarian then read out a portion of the section.

Q: According to you there was not sufficient time to promulgate this order beforehand and if the crowd would have listened to theMagistrate then this order would have been promulgated?

A. Yes.

Firing at the Bridge.

Q, Now coming to the firing at the bridges when you arrived there was pickets stoned in your presence?

A. Yes. I also was stoned.

Q. You went up to the crowd.

A, I tried to do it but my horse would not face the crowd. I did not go inside the ranks of the crowd—they were round me on my right hand, on my left hand and rather behind me. I was partially surrounded by the crowd.

In answer to further questions witness said at the time when firing was opened, the picket was stoned. There was a second and even a third stone throwing although he mentioned only one in his statement. He saw a man being wounded in his presence at the bridge. The reason for not mentioning the other two was that he was working at great pressure and had to put down facts as concisely as he could. He ought to have mentioned these two as showing the reason for firing but he was working at great pressure.

Treatment of Wounded.

Dr. Kedarnath's house was close to the Zenana hospital. His information was that some wounded persons were taken to "a house" and treated there but he did not know whether it was Dr. Kedarnath's house or not. He did not like to commit himself. He had never heard of the allegation that when some wounded were brought Mrs. Easdon was present and she said "The Police

have served you right, you deserve it." It was a cowardly and calumnious statement. He thought that the estimate of 20 to 30 killed and wounded was fairly correct. The procession which carried the dead bodies was a very big one and orderly one. The Police commenced investigations on the 11th and he himself went as far as the Kotwali. On the 12th the leaders of the riot were arrested. There was no disturbance on the 12th. The people obeyed his orders about burying the dead but with reluctance. On the 11th, he went inside the city and arrested the leaders but there was no demonstration, no trouble.

Afraid of being Murdered.

Q. What are your reasons for saying that the civil authorities had no control over the city ?

A. Because our control extended practically as far as the rifle could go, as far as the troops could see. People were collected and no Magistrate, no official could go into the city without a strong escort.

Q. What was there to prevent you to go inside the city on the 11th, and 12th, to go inside the city and to your ordinary duties ?

A. Well, because I would be murdered like Bank Managers.

Q. And being afraid of being murdered you and other persons in authority did not venture inside the city ?

A. You may put it like that if you like,—The Military authorities would not allow any one inside the city.

Q. What was there to prevent you to go in side the city with troops ?

A. We did go but we could not always go with the aid of troops.

Q. You cannot say if you had gone with troops your authority would have been opposed ?

A. I cannot say.

Q. What do you mean by saying that you had to obey the Military authorities ? Is it not a fact that every authority that you had was derived or conferred on you by some act of the Legislature ?

A. I take it from you.—Yes.

Leave Aside the Common Law of England.

Q. Where is the authority under which you can suspend your powers and hand over them to the Military authorities ?

A. There is the common Law of England.

Q. Leave aside the Common Law of England. Where is the provision in the Criminal Procedure Code which authorised you or the Commissioner to hand over the administration of any city to the Military authorities ?

A. I do not think there is.

Q. You referred to section 130 and 131. When you asked the aid of the Military you had no business to suggest that the whole matter should be entirely in their hands ?

A. No, but I don't like to quote the section.

Q. You canoot suggest any section under which you or the Commissioner were authorised to hand over the administration ?

A. It is rather difficult to point out legal authority but where the Civil authorities are unable to control the situation and guarantee peace and order, it is their duty to ask the Military authorities to take steps if considered necessary to preserve order.

Q. I quite agree with you but that is not the meaning of sec. 129 and 131. It does not say that you should hand over the administration to the Military authorities ?

A. There was no civil administration at that time except what was directed to the maintenance of peace and order. We did not hand over any civil administration practically so called.

Q. You could invoke the aid of the Military and nothing more. As a District Magistrate of 20 years experience, under what authority you allowed the Military to do all those things ?

A. What things, other than maintenance of order and peace ?

Q. Many things, issuing of proclamations, doing hundreds of other things ?

A. I am not arguing a case but my opinion is that the Military commander was justified in taking all measures necessary to maintain public peace and order such as arresting people and dispersing crowd. If he issued any order for what he considered the preservation of order that was not an extraordinary exercise of authority but rather making it sure that his exercise of authority would not be sudden and oppressive.

Q. But there must be some authority from either the Govern ment or the Legislature ?

A. I am not acquainted with it.

Mr. Miles Irving said that 102 persons were tried for an attempted Dacoity at the Tarntarn Tashil. These men were me by one Inspector and half a dozen constables and they all ran away

Q. It was not a very dangerous crowd?

A. Yes, if they had not run away they would have looted.

Q. May I know if they were convicted for an attempt at looting or for waging war against the King-Emperor ?

A. I believe it was waging war. I could remember.

Q. Is it not a fact that if you had tried them for dacoity, they could not have been tried by court martial courts ?

A. I do not think so.

Q. Unless their attempted dacoity had been changed to waging war against the King, the Martial Court would have no authority to try them ?

A. I donot think so.

Q : Electric light and water supply was cut off from the 10th ?

A : Yes, in the city.

Q : What was the justification ? A spirit of revenge ?

A : As regards water supply, there was rumour that the water had been poisoned. We also did not use the water for we thought there might be some basis in it.

Q : Was it cut off from the Civil Lines at any time ?

A : It was not cut off but for a short time it was not used.

Q : I suppose you were not consulted about this order ?

A : I was consulted from time to time but in regard to this matter I was not consulted—so far as I remember.

In reply to further questions witness said the electric supply was cut off to prevent people from parading about and also they did not know what they were going to do with the electric machinery.

Q : How could the cutting of electric current prevent people from damaging the electric plant or electric appliances ?

A : I do not press the particular motive. I say I cannot remember it. I know it was thought a good thing that the electric light should be cut off.

Q : Was not that order based on a spirit of revenge ?

A : Revenge is hardly the word. It was a sort of punishment.

Q : Don't you think it was like the punishment of the old old Nababi days ? Because 2000 persons committed an offence, undoubtedly a very dastardly offence, therefore you thought that the whole city should be punished for that ?

Q : At that time the curfew order was in force : people could not come out after 8. P. M. therefore electric light would be all the more necessary to find out whether they were obeying those orders or not ?

A : There were pickets.

Q : I want to know how the cutting off of the water supply or electric light would help in the least in maintaining peace and order ?

A : I cannot remember the exact motive which influenced the Military Authorities in their decision. I think partly there was the Engineering reason—hydrants had been smashed, water was pouring out ; and the other reason was the rumour that the water was poisoned. As regards electric light, the city was judicially

found to be in a state of warfare—and if the Military Authorities resorted to this to bring the people to a more saner frame of mind, they did nothing wrong.

Q : Is there any record to show how many hydrants had been smashed ?

A : I do not know. The Municipal people have it.

Q : Had this allegation about street hydrants being smashed been ever put forward ?

A : I think the Municipal Engineer told me that the hydrants were smashed. (Further questioned) I do not remember if the Engineer told me that the hydrants were smashed on account of the rumour that water had been poisoned.

Q : Now, was any agreement taken from some people a Tarn Tarn that they would not take part in any political activity for the next three years and that if they did they would pay a fine of Rs 5,000 each ?

A : People there did make some kind of agreement. It was not done under my orders.

Q : Could that agreement be produced ?

A : I think it can.

Q : So far as your experience of 20 years as Magistrate goes do you know that except in cases of theft, unnatural offences some cases of rape, no convicted person is flogged under the Indian Penal Code ?

A : I do not remember. I never used the code the

Q : Were you never informed that a meeting was held on the 12th and at that meeting it was announced by Hansraj that a second meeting would be held next day at 4 P.M. ?

A. I did not know in what exact form, but I heard that a a meeting would be held the next day. I did not hear Hansraj's name

Q : He was the man who subsequently turned approver ?

A : Yes.

Q : He was that very man who was addressing the crowd in the Jallianwalla Bagh ?

A : You put his name in my mouth yesterday but I believe he was not. I believe another man was addressing.

Q : Coming to the incident of the Jallianwala Bagh, did any person of authority visit Jalliawala Bagh that day ?

A : Not that I know of.

Q : To the best of your knowledge and belief nobody did ?

A : I do not know. I did not.

Q : Was any ambulance provided for the 13th ?

A : I believe no.

Q: Was any help given by the authorities to remove the dead and the dying to hospital.

A: I believe they were left to their friends.

Q: Was any help given to the wounded after the firing of the 10th at 2 P.M.

A. Yes, some people were taken away. The hospital was close by and the Civil Surgeon was sent for from the hospital.

Q: After this firing did you consider it reasonable to modify your curfew order which was passed at 12 o'clock that day in order that the dead and the dying might be removed?

A. I thought people would take away but they did not. They were in a state of excitement.

Q. You are not aware that any person disobeyed the curfew that night?

A. There was nobody in the city to say.

Q. There is no report of disobeying the curfew on the 13th.

A. The troops went rightback and left the city to itself.

Q. Did it strike any person in authority or to you that it was absolutely necessary that some first aid was necessary, in view of the fact that some 4 or 5 hundred were killed and a very large number wounded.

A. I do not know whether the General in authority sent out a party or not. Perhaps it was considered unsafe.

Q. Reasonably, it would have been unsafe for a party of soldiers?

A. I do not know but I found the Military Authorities making various arrangements for the safety of the Civil Station in case of further attack. In fact, it was a state of warfare, we were face to face with the enemy and it was not proposed to send out such parties. I think it would be a good thing to do if the situation permitted it.

Q. From 5.30 to 7.30 no help was rendered?

A. You should really ask the Officer who brought the troops to the city. I do not like to anticipate his reading of the situation.

Q. You never inquired whether any of the persons belonged to the respectable class?

A. Well I did.

Q. Can you give the names of the persons?

A. I cannot. I inquired whether there was any respectable people or not and I was told there were not.

Q. That information is based on hearsay and you had not inquired into the matter at all.

A. Most of my answers are based on hearsay knowledge.

Q. I think it would be very easy to get the names of these persons from Police records.

A. The Police kept a note of the Military punishments. I have got my figures from them... But I do not know whether they have destroyed those papers or not.

Q. Can you tell us whether it was a return or a written report.

A. I am not sure.

Q. You are very vague as to whether there was any respectable person or not.

A. I asked the Police and they said so. I did not go into the matter myself.

Q. There were about 100 special constables? They were all pleaders?

A. Yes.

Q. Practically the whole lot of the pleaders.

A. Yes.

Q. If the District authorities be allowed to get rid of legal practitioners from their districts, political agitation would cease at once or to a very large extent?

A. I am not sure. I am not prepared to say so. I think it might increase.

Q. Are the legal practitioners liked by the authorities?

A. Yes, they are on very good terms with the local Government.

Q. I take it they were appointed special constable under the Police Act.

A. They were appointed by the Military Authorities and I do not think they knew very much of the Police Act. I do not think the Police Act would be applicable.

Q. The Military appointed them?

A. Yes.

Q. Except the Police Act is there any authority under which anyone could be appointed Special Constables?

A. There is a general common law in England under which any person could be appointed special constable. It was done after the promulgation of Martial law—I think it was done after the 15th.

Q: What were their duties.

A. They were supposed to keep a general eye on what was going on in the city and report to the Martial Law authorities.

Q: How many miles had they to travel every day?

A. The city is only half a mile from the General Head Quarters.

Q. Was there any written instructions about their duties?

A. The Martial Law Authorities might have them. I have not get them.

Q. You know it is a thing greatly disliked by every Indian?

A. I do not know why they should.

Q. Please answer my question. As a matter of fact, they disliked this ?

A. They disliked at first. Towards the end they rather liked it.

Q. These pleaders liked it ?

A. Yes, they were first called Special Corstables and afterwards the name was changed to Ward Officers.

Q. Therefore they would not be subject to any rules and regulations under the Police Act ?—A. I should think not.

Q. In your opinion there is no difference between Special Constables under the Police Act and Ward Officers under the Martial Law ?

A. There is no difference in the functions they were performing.

Q. Nor any difference in punishment to which they were liable ?—A. I do not know.

Q. Is not a Special Constable punishable for the same offence for which an ordinary constable is punishable ?—A. Yes.

Q. Special Constables appointed under the Police Act would be subordinate to Head Constables and to the Inspector ?

A. They were constituted under the Military Authorities. There was no question of their being put under the Police.

Q. What was their ward duties ?

A. To patrol their respective divisions from time to time and report to the officers about what happened.

Q. They were ordered to report themselves three times a day ?—A. Yes.

Q. You consider this was liked by the pleaders ?

A. I do not say they liked it but they were a great deal reconciled to these, after relaxation.

Q. Can you give us their names ?

A. I cannot, but you will get a list.

In reply to further questions witness said that at that time the number of constables was 200 or 300 and the strength of the Military at no time was less than 500. And of course there was 1,500 camp followers, but they were not available for military duty.

Q. Then where was the need of appointing these pleaders as Special constables ?

A. You had better ask the Military authorities. They gave very valuable information. They could influence the people, they could get the best information. As a matter of fact, they did on several occasions very good service. They were a very useful body.

Q. You then admit that they could influence the public ?

A. Yes.

Q. I put it to you these pleaders were appointed Special Constables because the authorities wanted to punish these local agitators ?

A. Well, the idea did not originate with me. I cannot speak of the motives of the Military officers.

Q. A large number of C. I. D. men were imported into the city of Amritsar?

A. I do not say a large number. The investigations were carried on by the C. I. D. But their strength I do not know.

Q. It was the C. I. D. who decided which case was to go to the Civil Court, which to the Special Tribunal, and they used to send cases to the Legal Remembrancer over your head ?

A. Yes, they sent cases direct to the Remembrancer and to us.

Q. They were sending out cases to different courts for disposal ?—A. Yes.

Witness further said that the Mohurum was not a funeral procession in his definition. At the time of Indian funeral processions people did make noise.

Q. You said Kichlew said, "we will use our hands"—may I know what is the source of your information ?

A. Report of the special reporter of the Government.

Q. Can that be made available to us ?—A. Yes.

Q. What was the occasion and in what connection did he say that ?

A. According to my information it was at a meeting on March 1st in connection with the Rowlatt Bill.

Q. Are you aware of the fact that respectable people who were arrested were handcuffed in couples and were marched to the city and for hours they were made to sit in the sun ?

A. I cannot say how far they were. I was not present at any such occasions you mention. I saw people were handcuffed in the ordinary way and taken over to the Civil Jail or to the Criminal Court.

Q. Up to this time you are not aware that they were kept handcuffed for days and days both in jail and in fort ?

A. They were not kept handcuffed unless they were kept in tents. In the fort temporary places were made and I do not know whether they were kept handcuffed or not.

Q. For several days no arrangement was made for these respectable people ?

A. I cannot say. Everyone was suffering from want of ordinary comfort. I know European women and children were suffering from inconveniences in the Fort. But they were not kept in condemned cells.

Q. Either in the Fort or in jail they were not kept in cells?—A. Ordinary ward cells, I am not quite sure.

JHALIANWALA BAG

Q. The estimate was there were about 25 to 30 thousand people present there?

A. I did not see, I have heard about that number was present but I do not trust estimates.

Q. Why were not steps taken to warn off those people who had commenced to assemble that the meeting had been proclaimed as illegal?

A. The authorities were warning them along the street and it was, as I understand, at 4 P.M. that the news of the actual collecting of the crowd came to General Dyer upon which he made arrangements.

Q. You knew of the fact that the meeting was going to be held. Where was the difficulty of posting two or three soldiers and scaring away the people?

A. I do not think it would be at all safe to send 3 or 4 soldiers.—Q. Half a dozen soldiers?

A. I think they would not be able to do so.

Q. It was not done because it would not be safe to send half a dozen soldiers?—A. I cannot say.

Q. Why were not the Police ordered to go and prevent people from entering the garden?

A. It was not safe for a party of Policemen to go into the city in those days.

Q. They were at the Kotwali?

A. Yes, behind walls with military pickets. We could not send out that party to the city. When the General went he took the whole force with him.

1650 Rounds of Ammunition Fired on a Dense Crowd.

Q. How many shots were fired?—A. 1650.

Q. Is it true that firing continued for 15 minutes?

A. General Dyer will be able to tell you that. (Further questioned) I think it continued for 10 minutes.

Q. Were you informed that the majority of the dead bodies were at the entrance?—A. They were at the back.

Q. Was not the chief exit occupied by the Military?

A. No.

Q. Is it to your knowledge that a boy of 7 months was shot?

A. Not to my knowlege. It was not on our list.

Q. So long as you were at Amritsar you never took the trouble of ascertaining as to how many people were killed and wounded?

A. Yes, we tried. I got a return from the health officer.

Q. You never ordered an enquiry ?

A. I did not order any special enquiry.

Q. Between the 11th and 12th did you suggest any meeting to be held to terminate the hartal ?—A. No.

Q. All the shops were opened on the morning of the 13th ?

A. All the shops were opened.

Q. There was no hartal on the morning of the 13th.

A. I do not know. A great number of shops were still closed.

Q. Am I to understand that 75 per cent of the shops were opened and 25 per cent closed ?

A. I can't tell you the percentage. Some shops were opened and some closed.

The witness was then examined with reference to the meeting called by the authorities. The speech which the witness made was not a threatening speech. He spoke to the persons present in terms of very bitter remorse.

Q. Will you kindly give to the committee all the facts upon which you are prepared to make the statement that there was a state of open rebellion ?

A. From the general state of the district of Amritsar.

Q. Can you place all the facts upon which you came to the conclusion that between the 10th and 15th of April, there was a state of open rebellion in Amritsar. You have stated one fact, viz. the general state of the province. It is very difficult for me to understand. But apart from that can you give any specific facts upon which you based that opinion of yours ?

A. (1) The temper of the people was absolutely defiant.

(2) They were organising themselves in a hostile manner.

(3) They were openly making it known that they had control of the city and that they were independent of the Government.

(4) They also believed that the leaders desired to fight it out and see who was the master.

All these news came to us notably through hearsay. The opinion was arrived at from the general aspect of affairs as reported to us. That is all that I can think of at the moment.

Q. What do you mean by saying that between the 10th and 15th they were organising themselves ? Were they setting up a rival organisation of their own, organising Police and Military and law courts or what ? A. That is not what I mean.

Q. What do you mean by defiant attitude ?

A. It was on their look. We learnt also from reports.

Q. You said they had control of the city but you yourself admitted that none of the authorities cared to go inside the city.

A. Yes, without an escort. Nor would they be allowed to do so We could not put out our head into the hornet's nest.

Q. Will you kindly give me the source of your information: any report about some body saying 'we will fight it out?'

A. You will find it in the record of one of the trials.

Q. You being a magistrate of experience are you prepared to take out a single expression from a speech and say that amounts to open rebellion?

A. I did not come to that opinion on only one of those circumstance. I came to the conclusion upon a number of circumstances appearing before me during the day. At the time I was not writing out a reasoned judgment.

The Crawling Order.

Q. Are you prepared to swear that the allegation that the real order was that people must crawl on their belly and if any one refused to do it he would be butted by rifle is false?

A. It never came to my acknowledge in that form. I did not see it myself. It was not the order that the General told me that he had passed.

Q. It would not have caused any hardship to the people in the houses on that street?

A. I do not think they had much inconvenience. People told me they got over the roof and down behind.

Q. And you think people were very happy to do so?

A. I do not say so.

Further questioned witness said there was no civil authority present at the Jallianwalabagh—no Magistrate, but only two Police officers, He was not very far, If he had been sent for he would have been available.

Q. Amritsar being in a state of open warfare with the authorities how long in your view was this warfare continued?

A. No. I should say the control of the city was resumed after the 13th.

Q. Then this warfare continued from 10th to the 13th?

A. Yes.

Q. And I take it that the measures taken during the period were on the footing that Amritsar was in a state of warfare against the Crown?

A. I think that was the idea. The feeling was how near we were to another 1857.

Q. You regarded the whole city as being in a state of warfare with the Crown? A. It approached nearly to that.

Lord Hunter: The witness's own report was that there was a state of rebellion against the authorities.

Mr. Irving: I don't draw any fine distinctions.

Extracts from Evidence of General Dyer.

The Hero of Jhalianwala Bag.

Q. In the morning of the 12th, did you proceed through the city with a column of available troops ?

A. We went half round the city towards the En.....Gate, and then I proceeded through the city.

Q. What troops had you ? 120 British Troops, 200 Indian soldiers and 2 armoured cars ? A. Yes.

Q Did you proceed through the city to the place where you got reports as to mob collecting ?

A There was mob at the southern gate. We had a little difficulty in dispersing them. They would not go away immediately. I considered the advisability of opening fire on them. I thought it would not be quite right perhaps and that I had better issue a proclamation personally before I took such a drastic measure.

Q. Were you making any use of any aeroplane at that time ?

A. I do not think there was an aeroplane. It was not actually under my command. It usually came from Lahore.

Q. That gave you report of the situations in the city ?

A. Yes, it gave important information about what was going on.

Q. On the occasion of this march through the city, in what condition did you find the crowds ?

A. I think they were very insolent.

Q. How did they show their insolence ?

A. They were shouting Hindu-Mussalmanki jai. Then I ordered them to go away but they would not move back. Certain members of the crowd spat on the ground as we passed along.

Q. Did you see any act of violence committed on that occasion ? A. No.

Q. During that day, certain arrests were made by the police ?

A. Yes.

Q. Were they made under military protection ? A. Yes.

Q. I think you had a proclamation prepared which appears in the Appendix of the report which you sent to the General Staffon the 6th August ? A. Yes.

Q. That proclamation I see is in following terms : "The inhabitants of Amritsar are hereby informed if they will cause damage to any property or commit any act of violence in Amritsar or its environs it will be taken for granted that such acts are

due to incitement and offenders would be punished according to Military Law. All meetings and gatherings are hereby prohibited and will be dispersed at once under Military Law."—Who prepared that proclamation ?

A. I think it was done by me or the Brigade-Major, or I may have dictated it to him and he wrote it.

Q. That was prepared on the evening of the 12th ? A. Yes.

Q. How was it issued ? A. Through the Police, I believe.

Q. Do you know whether any measure was taken to ensure its publication to the citizens ?

A. No. I cannot. I was most likely informed that it had been proclaimed—I am not certain.

Q. Would you kindly explain what was meant by dispersing the crowd under Military Law ?

A. I would have to send them away—clear them out.

Q. According to Military law if you required to disperse the crowd must you or must you not give them intimation that they are required to disperse before you resorted to the measure of firing ?

A. We have to warn them and after that if they do collect, they will be fired on.

Q. According to military law, will it or will it not be right to fire upon a crowd to disperse them without giving proper intimation ?

A. They had already had orders. If they would collect, it would be right.

Q. On the morning of the 13th did you form any resolution as to yourself making a declaration in the city ?

A. I went there personally.

Q. What time did you start to make the proclamation ?

A. I do not exactly remember the time. It might have been 9-30 perhaps. It might have been later.

Q How long did you occupy in making the proclamation ?

A. Long time. I may have been there 2or 3 hours.

The proclamation.

Q. The proclamation that was read on this occasion is mentioned in the appendix 3 to your report : It is in these terms : "It is hereby proclaimed that no person residing in the city is permitted or allowed to leave the city . . . without pass from one of the following" . . . Then it proceeds, "No person residing in the city is permitted to leave his house after 8 ; any person found in the streets after 8 is liable to be shot. No procession of any kind is permitted to parade the city or any part of the city or outside of it at any time. Any such procession or any

gathering of 4 men will be looked upon and treated as an unlawful assembly and dispersed by force of arms if necessary."—What is the significance of the qualification : "if necessary".

A. Well, if I thought it necessary. It might not always be necessary.

Q, At the time the proclamation was issued, was there any ejaculation by the crowd with reference to the proclamation ?

A. I heard a good deal of noise. I was a little behind perhaps, I did not always hear what they said.

Q. Can you personally testify to any distinct reference made by the crowd during the period you were issuing the proclamation ?

A. I could not say. They were laughing. They were not behaving very well evidently. I was told that they were saying that it was bluff : "They wont fire" and words to that effect. They were not to be afraid.

Q. When did you get information that a meeting would assemble at Jallianwala Bagh ?

A. I was in the city at the time. I cannot quite say what time it was. It may have been from 1-30 to 2 p m.

Q. I see in this report to the General Staff you said : It was at 12-45 on my way to the Rambagh I was informed that inspite of my stern proclamation a big meeting would be held at Jallianwala Bagh at 4-30 that afternoon ? A. That's correct.

Q. On the assumption that it is correct, I want you to explain why you did not take measures to prevent the crowd from assembling at all at the Jallianwala Bagh ?

A. I went there as soon as I could. I had to organise my forces to think the matter out. I had to organise my forces, I had to make up my mind what forces I was going to leave behind and where to post pickets. I thought I had done enough in warning them not to meet. If they were going to meet, I was going as fast as I could. I had to consider the military situation and make up my mind and it took a certain amount of time.

Q. Did the making of dispositions necessitate the occupation of the time between 12-40 to 4 p m. ?

A. I did not believe that they would really meet after all that I had done in the morning. I did not think of sending off another force and warn them not to go. I had warned them 12 days up to the time I got back to Rambagh.

Q. When did you get definite information that in fact the meeting was being held ? A. At about 4 o'clock.

Q. From whom ? A. It was from Mr. Rehill as far as I remember.

Q. When you received that information what action did yon take ? A. My plans were complete then, and I marched off towards the city soon after.

Q. Had you with you picketting parties ?

A. I had picketting parties and we all marched off together.

Q. You had a special party of 25 rifles of Gurkhas and 25 Sikhs ?

A. Yes, there were 40 other Gurkhas armed with Kurkis.

Q. You also had two armoured cars ? A. Yes.

Q. Were those all the troops available after keeping pickets reserved. A. Every man available after providing for other things.

Q. You proceeded towards the Jallianwala Bagh at an usual pace. ? A. Ordinary walking pace.

Q You did not consider there was any necessity for proceeding with any extra expedition ?

A. No sir It was very hot. We went at usual pace of marching.

Q. As you marched you dropped out the picket parties ?

A. We marched till they came to the most convenient road to their destination and they left us.

Q. As nearly as you can recollect in what time did you reach the Jallianwala Bagh ?

A. I think it was about 5 or 5-15 p.m. I could not say. I did not note the time.

Q. When you arrived at the Jallianwala Bagh what did you do ?

A. I deployed my troops right and left, got the Gurkhas on the left and the Punjabis on the right.

Q. I think you had entered by the narrow entrance that leads into the Jallianwala Bagh ? A. Yes.

Q. You had left your motor cars behind ? A. Yes.

Q, Did you have the Gurkhas who were armed with Kukris or they were at the back ? A. They too had come into the Bagh.

Q, Then you had 40 Gurkhas and two columns of 25 men each, armed with rifles ? A. Yes.

Q. You said you deployed 25 soldiers to the right and 25 to the left that is on the high ground on the north side of the rectangular space ? A. Yes.

Q. That is a very convenient piece of land ? A. Very.

Q, There are very few entrances and exits ?

A. Yes, I think one wide and there might have been 2 or 3 small exits. I had never seen the Bagh.

Q. When you got into the Bagh what did you do ?

A. I opened fire.

Q. At once ?

A. Immediately. I had thought about the matter and dont imagine it took me more than 30 seconds to make up my mind as to what my duty was.

Q. As regards the crowd what was it doing ?

A. Well, they were holding a meeting. There was a man in the centre of the place on something raised. His arms were moving about. He was evidently addressing.

Q. How far was this man from you and the military.

A. When I entered first about 8 or 9 yds. He ran away to the right and there were a good many others who ran away and climbed over the wall.

Q. As I understand at a distance of some thing like 100 yds. from the place where you stationed the army there is a ridge; A. Yes.

Q. Where was the man who was addressing the crowd as compared with that?

A. He was absolutely in the centre of the square as far as we could judge. I should say nearly 50 or 60 yds. from where my troops were drawn up.

Q. Was there a great mass of crowd situated on the further side of the place from where you were, i.e. on the southern part of the Bagh?

A. Yes, I should think most of them were.

Q. He seemed to be surrounded by them?

A. Perhaps most of them were on the further side.

Q. So far as you knew was there anything occurring except this man addressing?

A. No, I could not see anything beyond that.

Q. How many people were in the crowd.

A. I then estimated them roughly at 5000. I heard afterwards there were many more.

Q. On the assumption that there was a crowd of something like 5000 listening or more have you any doubt that many of the people must have been unaware of your proclamation that you issued in the morning?

A. It had been well issued and news spread very rapidly in a place like that under prevailing conditions. At the same time there may have been a good many who had not heard of the proclamation.

Q. On the assumption that there was that risk of people being in the crowd who were not aware of the proclamation. did it not occur to you that it was a proper measure to ask the crowd to disperse before you took that step of actually firing?

A. No, at the time I did not. I merely felt that my orders had not been obeyed, that martial law was flouted and that it was my duty to immediately disperse by rifle fire.

Q. Before you dispersed the crowd, had the crowd taken any action at all? A. No sir. They had run away a few of them.

Q. Did they start to run away?

A. Yes; When I began to fire, the big mass in the centre began to run almost towards the right.

Q. Martial law had not been proclaimed. Before you took that step which was a serious step, did you not consider as to the propriety of consulting the Deputy Commissioner who was the civil authority responsible for the order of the city ?

A. There was not any Deputy Commissioner to consult at the time. I did not think it wise to ask anybody further. I had to make up my mind immediately as to what my action should be. I considered it from the military point of view that I ought to fire immediately, that if I did not do so, I should fail in my duty.

Q. When you left Rambagh, did it occur to you that you might have to fire?

A. Yes, I had considered the nature of the duty that I might have to face.

Q. Did you not think it proper to have civil authority with you before you took that step ?

A I had a Police Officer with me.

Q. Who is that ? A. Mr. Rehill and Mr. Plomer were there.

Q. As I understand Mr. Rehill and Mr. Plomer came on the scene after you actually commenced firing ?

A. I think Mr. Rehill was there actually while the firing was going on.

Q. During the whole time ?

A. I do not know. I was looking at my troops but I saw him there. I did not wait longer after the firing and he was certainly there at the end of the firing.

Q. Before firing did you ask Mr. Rehill whether in his judgment it was necessary to fire ?

A. No sir. My mind was made up, as I came along in my motor car, that if my orders were not obeyed, I would fire immediately.

Q In firing was it your object to disperse?

A. No sir. I was going to fire until they dispersed.

Q. Did the crowd at once start to disperse as soon as you fired ? A. Immediately.

Q. Did you continue firing? A. Yes.

Q. After the crowd indicated it was going to disperse why did you not stop ?

A. I thought it my duty to go on until it dispersed. If I fired a little the effect would not be sufficient. If I fired a little I should be wrong in firing at all.

Q. For what length of time did the firing go on ?

A. It might have been 10 minutes, it might have been less. I

think it was probably less from the number of rounds that were fired.

Q. So far as you could see had the crowd sticks in their hands ?

A. I could not say that they all had. I presume that they had a number of sticks. I knew they were going to be armed with sticks.

Q. Have you ever in your military experience to use similar methods of dispersing crowds ?

A. Never, it was an exceptional case.

Q. What reason had you to suppose that if you had ordered the assembly to leave the Bagh they would not have done so without the necessity of your firing and continual firing for any length of time ?

A Yes, I think it quite possible that I could have dispersed them perhaps even without firing.

Q. Why did you not have recourse to that ?

A. **They would have all come back and laughed at me and I should have made what I considered a fool of myself.**

Q In taking the action which you did, did you take it upon that basis viz. that it was not so much an Amritsar question as a question of Amritsar district ?

A. Yes, Sir, absolutely, I looked upon the crowd as rebels who were trying to assault my forces to cut me off from every place. Therefore, I considered it my duty to fire on them and to fire well.

Q. Were there any other circumstances that weighed with you when you took the position to fire ?

A. No, sir I looked upon it as my duty and a very horrible duty.

Q. After the firing had taken place, I think you returned with your troops to the Rambagh ? A. Yes, Sir.

Q. And on counting the ammunition it was found that 1650 rounds of ammunition had been fired ?

A. Quite right.

Q. Did you ascertain the casualties ?

A. I could form a rough estimate of the number from the number of rounds that was fired : and I calculated from that roughly that the number would be 300. I did not take it to be more than 300 casualties.

Q. You did not know that the casualties were something like 400 or 500 ?

A. I have seen it in the papers.

Q. You now know whether you have been informed or not ? It was something between 400 and 500 ?

A. I have seen it in the papers. If I divided the rounds by 6 I should be nearer the marks than if I divided it by 5.

Q. Shooting was individual and not volley shooting?

A. There was no volley shooting in the service?

Q. The crowd was very dense? A. Very dense.

Q. It was unlikely that a man shooting into the crowd would miss?

A. No, except in certain instances as they were running a certain number of men was hit—a small percentage was hit as they were running along. In the centre of the square the crowd was very dense. There, as a man directed his fire, he should not miss.

Q. So that it is not impossible that the number of deaths should be 400 or 500 from the number of rounds?

A. Quite possible.

Q. As regards the removal of the wounded were you in a position to render any aid?

A. No Sir, not there, I should have given aid afterwards if they asked for it. *It was then not my duty to render aid.* It was a medical question.

Q. Next day you issued a proclamation with reference to the burying of the dead in these terms: "The inhabitants may burn or bury their dead as soon as they please. There must be no demonstration of any kind."—That was the order? A. Yes Sir.

Q. After the firing what was the state of the city on the 14th?

A. I went through the city to see if my orders had been carried out or not. I visited the pickets. All was quiet.

Q. Martial law I think was actually proclaimed on the 15th?

A. Actually at Amritsar I believe on the 15th. It might have been later perhaps, I cannot remember.

Q. Under Martial law a number of orders were issued? A. Yes.

Q. Both before and after the proclamation?

A. I am responsible for what the orders are. They may have been issued by my Brigade Major. But I am responsible.

Q. I see in your report you say that the city assumed normal conditions? A. Yes, sir. There was absolutely no crime.

Q. If that is so was it necessary that martial law should be proclaimed on the 15th?

A. It was; Martial law had been in existence before it was proclaimed. As they were getting better I relaxed the conditions.

Q. Martial law had 'defacto' been in existence from your arrival? A. Absolutely sir. It had the same effect.

General Dyer's Impression about the Sikhs.

Q. Did you on the morning of the 14th receive information that another meeting was to be held?

A. Yes, in the Golden Temple.

Q. What significance did you attach to that?

A. I thought that I might have to fire again perhaps at the mob. If I did so, we should have all the Sikhs complaining that I had destroyed the Golden Temple. Without firing rumour was going abroad that I had destroyed the Golden Temple. Therefore if I had fired on it, it would be proof that I had destroyed the Golden temple.

Q. There was no truth in the rumour that the Golden Temple had been pulled down ?

A. No, sir. It was not touched in the least. I sent for Arur Sing and Sunder Sing Majithia, one was the manager of the Golden Temple and the other, I understood, was very influential. I asked them not to allow it and if they required any help I should be called to help them.

Q. Had some nasty rumours been afloat as to your action with reference to some Sikh girls ? A. Yes sir.

Q. Did you take means to dispel the rumours ?

A. There was iron discipline at Amritsar. It could not be possible but I had to dispel it. So I went round.

Q. You were satisfied there was no truth in it ?

A. Absolutely no truth.

Q. As regards flogging that was a form of punishment which is recognised in the army ? A. Under Martial Law specially.

Q. What do you say about public flogging as contrasted with private flogging ?

A. As soldiers when we lash a man we lash in public. The whole regiment is paraded and the victim is lashed in public with a view to make an impression on every wrong-doer or to make an impression on would-be wrong-doers.

Q. Do you think that the same reason applies when under Martial law you flog a civilian ?

A. Yes, I looked upon it as the same as it would make good impression under Martial Law.

Q. Of course according to the old Civil laws this used to occur in public but for many years they have not taken place in public ?

A. I see.

Q. Were these people whipped in public ?

A. Yes, but both ends of the street were closed and it did not look as a public thoroughfare.

Q. But people going that way could have seen it ?

A. If they liked to go there they could have seen.

Q. People who were living there could have seen ? A. Yes.

Q. Would it not have been better if that took place in private ?

A. I cannot say it.

Q. So far as the inhabitants of the streets were, concerned, why should they have liked to see flogging ?

A. I think the population of Amritsar is 70,000.

Q. It is a great deal more. It is about 1,00,000.

A. The crowd were present at the firing and other places, it would look as if the majority of these men were in it. A very great number were rebels.

Q. Still you must admit in a large population there must have been many citizens who are not disposed to disorder but were quite willing to obey lawful orders? A. Yes.

Q. There was that narrow minority that you had to get mastery over?

A. Unfortunately for them owing to the wicked acts of others they came under martial law and if they had to look things like that, it might have been unfortunate but under martial law it could not have been helped.

Q. Must you not issue orders so as not to permanently alienate the people or put them out of sympathy with the administration?

A. Quite so. But we were making examples of people who were doing wrong.

Q. But you must at the same time see that you do not condemn the innocent in punishing the guilty?

A. I did not see that I was condemning the innocent.

Q. Take your orders as regards crawling. What was your object?

A. I explained that in the statement printed. I felt women had been beaten. We look upon women as sacred. I searched in my brain for a suitable punishment for these aweful cases. I did not know how to meet it There was a little bit of accident in that. Now when I visited the pickets, I went down and ordered a triangle to be erected. I felt the street ought to be looked upon as sacred. Therefore I posted pickets at both ends and told them 'No Indians are to be allowed to pass along here. I then also said if they had to pass they must go on all fours! It never entered my brain that any sensible man, any sane man would under the circumstances voluntarily go through that street.

Q. You promulgated that order from the 19th. to the 25th of April and Miss Sherwood was assaulted on the 10th? A. Yes.

Q, Should not your object have been to punish those who were guilty of assault so far as possible to avoid punishing those who were innocent? A. Yes

Q. At the street where you issued this proclamation, there are many houses abutting? A. Yes, a good many on both sides.

Q. As I understand there are a good many houses that had no back entrance at all? A. I was not aware of it at the time.

Q. If it to be the case that there were many of these houses that had no back entrance what justification is there in passing an

order which necessitated the inhabitants lawfully residing to crawl on all fours when they had to leave their houses ?

A. They could leave at all other times. My picket was there from 6 A. M. to 8 P. M. I do not think it caused very great inconvenience. If they had suffered a little under martial law it would do no harm. They could get necessaries of life by other means. It could not be helped if they had to suffer a slight amount of inconvenience. Q. How could they ?

A. Most of them had back entrances, I was told. Those who had to get necessaries could go and adopt improvised means or go out after 8 P. M.

Q. This order might have a very different effect from the effect which you wished instead of being a just punishment on those who had offended ; it could cause a great deal of ill-feeling among those who would resent it, people who had not been responsible for the act that was done ?

A. Amritsar behaved very badly and most of the inhabitants either gave assistance or were only waiting to see what was going to happen.

They did not offer any help until after the trouble was over. If they suffered a little inconvenience it could not be helped.

Q. You will admit during the period of turmoil it is difficult thing for the peaceful citizen to give assistance in quelling the disturbances. Is it not just on that account that extreme remedy be confined to the mob as distinguished from law-abiding citizens ?

A. Yes they were abstract law abiding citizens ; but I think on that occasion I only thought of punishing the wicked.

Q. But this street was not the street that was frequented by those who had beaten Miss Sherwood ?

A. No. But I had erected a platform there in the middle of the street and thought when I got these men who had beaten her I would lash them down. I meant to lash them. I also wanted to keep the street, what I called sacred. Therefore I did not want anybody to pass through it. It was an accident that these men had to pass through. Q. There were a number of persons made to crawl ?

A. I did not hear all that,—if they took anybody deliberately it was not done deliberately by me. It was a pure accident. My order was different. As they were going my sergeant made them do what I had ordered. But I never imagined that any sensible man would go there voluntarily.

Q If you wanted to get people away was it not a meaningless order.

A. It was only with a view to making the street what I called sacred. I was searching my brain for some suitable punishment at the time and the order made was all that I could have done.

Q. You had it enforced from the 19th to the 25th April ?

A. I think that is quite right. I wanted to revoke it but I went away on the 21st and so the order was kept in force up to that time.

Q. What led to its being superseded ?

A. I received an order to that effect.

Q. If you had not received it what was your intention ?

A. Well, after I returned I presume I would have taken the picket off. I had a great deal to think of. After the men were lashed there was no need of keeping the pickets there.

Q. When were these 6 men lashed ?

A. I think it was about the 20th.

Q. If it was on the 20th there was no object in going on with that after the 20th ?

A. I had overlooked the matter. There was certainly no object after these men had been lashed.

Q. As regards the men who were lashed all of them were men who had assaulted.

A. Yes, so I am told.

Q. But all of them were not lashed in consequence of assault on Miss Sherwood but for some other offence ?

A. Yes, they were tried. If these are the men they must be lashed in that street.

Q. Were they lashed in that street before they had been tried for assaulting Miss Sherwood ?

A. No. I did not wait till the Provost Martial.

Q. Therefore I do not see it was a punishment that was meted out in consequence of that. It was in respect of something like breach of discipline ?

A. I suppose when I found that these are the men who had beaten Miss Sherwood, I said that is the place to lash them.

Q. I could understand if they had been lashed at the time but they were not lashed except for another offence. I do not quite see how you achieved anything by having them lashed there ?

A. Everybody knew that they had beaten Miss Sherwood. So lashing them there appeared to me to be proper. They escaped a bigger punishment. I thought these were the men when I lashed them.

Q. Complaints have been made that under Military law, a number of persons of Amritsar, occupying positron of responsibility in the society were arrested and kept in custody for a long time and then released without any charge being preferred against them. Do you know anything about that ?

A. I do not remember anything about that. I believe there were a certain number of men in the Fort. They were trying to get them tried as far as they could. My orders were to have them

tried as soon as they could. But there was a great deal of doubt as to who were to try them, the Provost Martial, the Special Court or any body else. It might have been that owing to that there was a little delay.

Q. In connection with their being taken through the streets and their having been subjected to the indignity of hand-cuff, what do you say ?

A. I think they were probably hand-cuffed. That is the ordinary method of dealing with them who had committed offence under martial law.

Q. Before they have been tried ?

A. Yes, I think that would be the right course.

Q. As regards trial, there were two sets of tribunal set up by the Government of India and the summary courts that you set up ?

A. That's it.

Q. Had you anything to do with the regulation of trial of the cases under the special courts ?

A. No, sir, they were tried by the Provost Martial.

Q. What was the law regarding procedure ; Is there a special army regulation or special martial law regulation ? A. Yes, sir.

Q. Can you supply me with a copy of the regulations ?

A. No, sir, I have not got one.

Q. With reference to the commissions i.e. special tribunals you had nothing to do ? A. No.

Q. That was a matter entirely regulated by the courts constituted ? A Yes.

Examination by Sir Chimanlal Setalvad.

Q. When you arrived the civil authorities handed over the charge to you ?

A. They said it did not exist and I should take command. There was complete lawlessness in the city, they said.

Q. Was charge formally handed-over to you ?

A. Yes, in writing. That is in appendix to the report.

Q. Under what authority was this done ?

A. I do not know—under some civil law.

Q. Can you tell me under what civil law?

A. No. Any way it was handed over to me.

Q. Had you any orders from superior authority to take civil charge in that manner ?

A. I was the officer commanding the district and therefore if the civil law ceased it became my duty to take over.

Q. You thought you were competent to take over charge ?

A. From the military point of view, certainly.

Q. When you arrived you heard of the events of the 10th at Amritsar? A. Yes.

Q. Did it strike you that the armed forces in Amritsar at the disposal of the civil authorities was not sufficient to cope with the situation?

A. Yes, it had apparently proved itself not to be sufficient.

Q. If the civil authorities had sufficient military aid supplied to them could they cope with the situation?

A. They had to try the thing. The very best expedient under the circumstances was that they should hand over the charge to me as the officer commanding the district, considering the situation all round.

Q. Neither you nor Mr. Irving considered the possible alternative of the civil authority carrying with sufficient military aid from you?

A. No. I could act in aid of civil power—that is in small matters.

Q. You did not consider it?

A. I do not remember it. I thought what had happened, handing over to me was right. It was very serious situation. It was beyond civil control—I was the man to deal with it rightly and properly.

Q. Did you consider the feasibility of the alternative I am suggesting or you did not consider it at all?

A. I never considered it. I may have. I cannot tell you.

Q. You had consultation with Mr. Irving? A Yes.

Q. And with Police officers and some other gentlemen?

A. There were Mr. Plomer, Mr. Raehill and various others.

Q. Mr. Smith?

A. I do not think he was.

Q. Did you consider the alternative that I am suggesting to you or you did not?

A. This authority had been handed over to me and it was right.

Q. You did not see the necessity of considering the alternative?

A. I do not think so—I may have, I may not have. At that time there was no such thing as civil power. The time for giving military aid had gone. It now came under me and rightly so. I do not know of any medium course.

Q. As soon as you arrived Mr. Irving told you that he was prepared to hand over? A. Yes.

Q. When that proposal was made to you did you or Mr Irving consider the alternative that the civil power could be carried with sufficient aid from you?

A. We did not. I thought what happened was right.

Q. There was no discussion between you and Mr. Irving on that subject? A. There was no discussion.

Q. On the 12th various arrests were made in the city? A. Yes.

Q. Who arrested them?

A. The Police with the aid of the military. I was there in case I was wanted.

Q. It was the Police who arrested? A. Yes.

Q. Were those persons arrested under warrants issued by civil authority?

A. There was no warrant as far as I know. Under Military law we could arrest them. But they no doubt had their warrants. You may find that out from the Police.

Q. So far as you were aware was there any investigation before they were arrested?

A. I thought the Police knew their duty and they did their duty in the ordinary way.

Q. The arrests of these persons were still left to the ordinary civil authorities?

A. When they said this is the man who has murdered. I said 'arrest'.

Q. Were the persons hand-cuffed and marched through the city?

A. That I do not know. They were probably hand-cuffed.

Q. Taken through the city?

A. I cannot say. They probably had to go through the city.

Q. Was any suggestion made at your consultation to take some drastic military measure against the city on the 11th?

A. I was to enforce my orders.

Q. No other special measures?

A. I will tell you. I cannot think of any other special measure.

Q. It has been suggested that at one time it was considered desirable to bombard the city.

A. I know nothing about it. I never thought it necessary. It may have been necessary later. It all depended on the behaviour of the crowd.

Q. There is no truth in the suggestion, it was considered on the 11th? A. I never heard of it.

Q. On the 12th you issued proclamation No. 1, on the 13th No. 2 was proclaimed in the streets in the manner you have described? A. Yes.

Q. It says: "No procession of any kind is permitted to parade the streets in the city or any part of the city or outside of it any time. Any such procession or gathering of 4 will be treated as an unlawful assembly and will be dispersed by force

of arms if necessary."—Does not that language refer to procession parading the street ? A. Yes.

Q. Is not the language open to this construction ? No procession of any kind is permitted to parade the streets in the city or any part of the city and the prohibition is no procession should parade any part of the city ? A Yes.

Q. It is against parading of procession ? A. Yes.

Q. That is the substantive prohibition ? A. Yes.

Q. Then follows the penalty with regard to such procession ?

A. Yes.

Q. Viz., parading the street ? A. Yes.

Q. Or gathering of 4 men in the street ?

A. If it is only in the streets that they were not to meet—that is certainly not the meaning.

Q. You have seen the Golden Temple ? A. Yes.

Q. You have seen that quarter where it is situated ?

A. Yes. I do not know it very well, I went once or twice.

Q. Your proclamation was not read out in that quarter ?

A. I cannot tell you. It must have been done

Q. Will you be surprised to hear that it was not ?

A. If it was not so it may be right.

Q. You heard of the Jallianwala Bagh meeting at 12-40 ?

A. Yes, somewhere about that.

Q. When you heard that you did not take any step to warn the people against going to that place ?

A. I had been warning them all the morning.

Q. But after you heard you did not ?

A. No, I did not. I began to organise my forces to think about it.

Q. You did not think it would be desirable, for instance, to put posters at that place ?

A. There was no time to do all that, I had to look sharp and organise my troops and think what I was to do. The situation was very serious. It was much more serious than now it seems.

Q. When you heard of it you made up your mind that if it was held you would go and fire ?

A. As I have said, I did not at first think they would go to that, but if they were defying my order after all that I had done I had made up my mind practically that I would fire immediately in order to save the military situation. The time had come when we could delay no longer. And if I did so, I was liable to be court-martialled.

Q. Two armoured cars were there ? A. Yes.

Q. They had machine guns ? A. Yes.

Q. When you took them, you meant to use them ?

A. If necessary. If necessity arose, if I was attacked, I presume that I would use them.

Q. When you arrived there you were not able to take the armoured cars in, because the passage was too narrow ? A. Yes.

Q. Supposing the passage was sufficient to allow the armoured cars to go in **you would have opened fire with the machine guns ?**

A. I think the probability is **yes.**

Q. In that case the casualties would have been higher ? A. Yes.

Q. You did not open fire by the machine guns by accident because they could not be got in ?

A. **Yes, if they could be got in, the probability would be that I would open fire with the machine guns straight.**

Q. I gather, General, as you have put in your report, your idea in taking this action was really to strike terror ?

A. Yes, if they disobeyed my order. If they completely disobeyed law, they were rebels and I must not treat them with gloves on. I was going to give them a lesson.

Q. Your idea was, as I put it to you, to strike terror ?

A. Call it what you like, I was going to punish them.

Q. To strike terror not only on the immediate crowd or the Police but all through the Punjab ?

A. Quite so. My idea was that it should make a wide impression thoughout the Punjab.

Q. Producing sufficient moral effect not only on those persons but more specially throughout the punjab—that was your view ?

A. I wanted to reduce the number of the rebels.

Q. You thought it would be a right thing in order to save the British Raj ; that is what you thought ?

A. Yes, I was going to reduce the moral of the enemy. If they were going to fight me they were rebels and I was going to shoot them.

Q. You thought the British Raj was in great danger ?

A. No, it is a mighty thing, it would not be in great danger. But it might bring about more blood-shed, more mutiny, more loss of lives. But the British Raj would not be in danger.

Q. You never thought it ? A. Never.

Q. Your object was not to save the British Raj ?

A. To save lives, to save other places being looted, to prevent anybody who thought they could manage to mutiny. It was a horrible act, at the same time it was a merciful act and it required lots of doing.

Q. Did it occur to you that you were really doing great disservice by driving discontent ?

A. No, I thought it was my duty to do it at the same time. But I also realised it would be the means of saving, and any man, any reasonable being with a sense of justice, would see that *I was doing a merciful act* and that they ought to be thankful to me for doing it.

Q. But did this aspect of the matter strike you at all ?

A. Never. I thought it would do a jolly lot for good to the people.

Q. When you entered the garden and gave order to fire your men fired standing ?

A. Kneeling. There were a few who were not kneeling but by the laws of firing these men were kneeling.

Q. Did you observe, General, after the fire was opened, there were lots of people in the crowd who lay down on the ground in order to save themselves? A. Yes.

Q. Your men continued to fire on those so laying on the ground?

A. I cannot say that. Some were running at the time, some were lying down. They fired where I directed them to fire. They sometimes had ceased firing and I redirected them to fire. Firing was controlled and was as instructed.

Q. Did you direct on people lying on the ground?

A. I probably selected—there might have been men laying down—but there were other targets, men who were standing.

Q. After firing, did you take any measure for the relief of the wounded ?

A. Do you mean immediately after? A. Yes?

A. No, certainly not. It was not my duty. It was not my job. The hospitals were open. They could go there but they did not because they thought they would be arrested.

Q. No action was taken for dealing with the dead?

A. They asked for permission to bury the dead.

Q. That was much later?

A. I do not think it was much later. My recollection is when I got back to the Rambagh they came and asked me. It never entered my head that they won't go to hospitals and if people were likely to go forward they could.

Q. This action of yours, you now know, has resulted in the death of 400 or 500 people and a considerable number of wounded ?

A. Yes.

Q. That action of yours was approved by the Punjab Government?

A. I believe so. It was. Of course, there was a wire to that effect.

Q. You wired information to the Lieutenant-Governor?

A. I might have, but I cannot say at this distance of time. He was probably wired to by my Brigade Major.

Q. You say the Lieutenant-Governor approved that action of yours? A. I presume so.

Q. Were any orders promulgated to the effect that people should salaam Military officers, that if they did not do so they were to be punished?

A. Under Martial Law every man has to salute the General Officer Commanding whether it be by salaaming in the ordinary manner or by taking off his hat, but every man is bound to salute.

Q. Were orders actually promulgated?

A. I do not know. I cannot remember, but that is the ordinary course: They must salute. If they came under Martial Law, they must understand that. Every Indian knows that he ought to salaam.

Q. A large number of people were absolutely uneducated?

A. Yes.

Q. They could have no conception of Martial Law?

A. They all know salaaming. They salaam big people. They salaam Rajas.

Q. What I want to suggest to you is that a large number of people did not realise that it was part of Martial Law that they should salaam British Officers?

A. That may be so. But at the time they knew it was part of their duty. If I happen to see my senior officer I salute him. India is the place of salaam Indians know and ought to know it.

Q. They ought to salaam every British Officer?

A. Most certainly yes, if you ask my opinion.

Q. Every British officer?

A. Not every Indian should salute every British officer. There are Indian officers of higher rank, we do not expect them to salute.

Q. They must salute every British Officer.

A. Usually you salute your superiors Under Martial Law they are to salute me just like any man in the camp.

Q. And is it your view that it is obligatory on the citizens also to salute every Military officer under you?

A. I think there was a rebellion, a great deal of rebellion and that it would be just as well that they should.

Q. They were bound to salute?

A. They were bound to salute me. I think under Martial Law they ought to salute their superiors. I do not think it is a very stern order.

Q. Were people actually arrested for not salaaming?

A. I think not actually for not salaaming but they were impertinent when I questioned them.

Q. Not for salaaming or failing to salaam? But when asked they gave impertinent answer?

A. Well, I will give you an example. I said why don't you salaam. He said I do not know how to salaam. On that under Martial Law I arrested him.

Q. In connection with this salaaming people were kept in custody for 10 days?

A. No, I do not know if that is right. It may be.

Q. Were not people made to crawl on the street for this?

A. But those who were impertinent and were arrested by me were, by some accident, sent back to that street where my pickets were. My sergent said: You crawl, that is the order and they had to crawl.

Q. There were some men unconnected with the assault on Miss Sherwood but arrested for impertinence and were marched through the street and made to crawl?

A. They had nothing to do with the Sherwood case. They were men who were impertinent to me as I went there. I only gave them an example. These men were made to crawl not necessarily because they assaulted Miss Sherwood.

Q. But there were other people who were guilty of breach of Fort discipline or impertinence and were marched through that street and made to crawl?

A. Yes, by accident. I posted my pickets. I did not know the Police were at the far ends. They arrived at the near end of the street and my sergent said, 'the order is to crawl, you crawl.' My intention was not to make these particular men crawl. After the 19th they went voluntarily to crawl.

Q. 'After the 13th the city was a pattern of law and order'—that applies to a period subsequent to the disturbances? A. Yes.

Q. Can you tell us what was the need of continuing Martial Law over the period; was it in fact continued?

A No harm would be done. It was very justly administered and if I overlooked in any way to take it off when it was necessary, it was my job. When they told me it was to be off, it was off

Q. It was continued because no harm was done and it was justly administered? A. Yes.

Q, But there was no particular necessity of continuing it?

A. Law and order had come back. There was a period when Martial Law was not necessary, but it did not continue for all too long. That is all.

Examined by Pandit Jagat Narain:—

Q. You arrived at Amritsar at 9 or 10 p.m., on the 11th? A. Yes.

Q. Were you informed that on the 11th, the civil authorities were able to make arrests in the city?

A. I was not informed of that fact. I see it in the report there were arrests made on the 11th.

Q. You were not informed of this fact? A. Not then.

Q On the 12th? A. So far as I remember, no.

Q. Were you informed of the fact that on the 11th the people of Amritsar approached the civil authorities for the purpose of burying their dead and that certain orders were passed by the Deputy Commissioner and that those orders were obeyed?

A. I did hear that they had asked for permission to bury the dead bodies and that certain orders were issued to them.

Q. Were you informed of any lawlessness or act of violence committed by the mob on the 11th? A. No.

Q. Were you informed of any lawlessness or any act of violence committed by the mob on the 12th?

A. I should think, no.

Q. Therefore may I take it that up to the 13th, the only information which you had about the behaviour of the mob inside the city was as to what they did on the 10th?

A. Yes, so far as Amritsar city was concerned: there was no further lawlessness except that on the 10th.

Q. The only information supplied to you was as to what they had done on the 10th? A. I think, yes.

Q. You have repeatedly described the citizens of Amritsar as rebels; therefore may I take it that your conclusion was based on that information supplied to you?

A. Not only on the position in Amritsar but outside Amritsar as well.

Q. I am talking of Amritsar only?

A. In my mind I had not only what happened there but also outside.

Q. On the 11th or on the morning of the 12th at the railway station, a number of names of agitators were given to you by Ashraf Khan?

A. On the night of the 11th. It would be practically the morning of the 12th.

Q. Can I get anywhere the names of the persons taken by you?

A. I am afraid you cannot have them, I have not get them.

Q Do I understand that the paper is not in existence?

A. My Brigade Major may possibly have got it. He is a very good Brigade Major. He may have it.

Q. May I take it that all those persons whose names were given to you by Ashraf Khan were arrested under your orders?

A. I cannot say they were arrested. I do not remember if they were arrested. But there were certain names of persons. I

was told they had done certain things. Undoubtedly, I said,—arrest them.

Q. You were given this information by Ashraf Khan?

A. The Superintendent and Mr. Irving were there.

Q. The information was given by these officials?

A. There may be other officials who have that information.

Q. If it be a fact that neither the police nor the officials were aware of the fact as to who were the persons who were resposible for the assault on Miss Sherwood, as to who were the persons who burnt the National Bank, as to who were the persons responsible for the murder of Mr. Stewart and other persons, they could not have given you then any information on this point.

A. Why do you assume that?

Q. Are you aware that it was not up to the 23rd April that any reliable information was given to any person in authority as to who were the persons concerned in all these occurrences?

A. I do not understand that. Lots of persons were arrested. They have known it.

Q. For the first time approver Hansraj gave information to the police on the 23rd April as to who were the persons concerned in the different occurrences and up to that time there was no other evidence?

A. Hansraj was not the only man who gave that information.

Q. Can you tell me as to whether you have any other information?

A. I know nothing about it. I went there as a military man.

Q. Supposing the authorities themselves were not aware of the individual persons who committed the offence, they would not be in a position to give you the names.

A. If they were not, they would not be.

Q. If the persons concerned in the assault were not known to authority, how did you come to the conclusion that these six persons were the persons actually concerned in the assault?

A. How am I to assume that the authorities did not know this because Hansraj had not spoken. There were lots of others who could give information to them.

Q. Who was the officer who informed you that these six persons who were flogged for breach of fort discipline were concerned with the assault on Miss Sherwood.

A. The man who arrested them told me that, I presume. I cannot remember. And if they arrested them wrongly they had no answer for their wrong doing.

Q. Is it not a fact that except these six persons, no one else was ever accused of having committed any breach of Martial Law regulations inside the Fort and no other person has been mentioned? A. Yes.

Q. Is it not an extraordinary coincidence that these six persons who were supposed to have taken part in the assault on Miss Sherwood were the only persons who committed any breach of fort rules.

A. More than a hundred persons were arrested?

Q. Up to that time?

A. From time to time. Some in the fort and some in the Rambagh.

Q. Can we get any detailed information about the trial of these six men and the offence they committed?

A. I should think so. The police should know why they arrested them and who gave evidence. Presumably there should be some thing. As far as I know under Martial Law it is unnecessary to keep a record.

Q. I wanted to know whether there is a record?

A. There may be. You may be able to get it out of the police.

Q. What have you to say to the suggestion, if it be made, that because these six persons were supposed rightly or wrongly by you or other officers to have taken part in the assault on Miss Sherwood therefore on the pretext of the breach of Fort discipline, but as a matter of revenge they were flogged?

A. I say it is a wrong suggestion.

Q. Don't you think it wrong to inflict any punishment on undertrial prisoners in connection with the assault on Miss Sherwood?

A. No. They were not. If they committed an offence under martial law they must come.

Q. Why were they not flogged inside the Fort?

A. I wanted them to be flogged where Miss Sherwood was assaulted.

Q. Similarly with regard to the crawling order. That order was promulgated by you inside the city?

A. I would not say that.

Q. You say in your statement here. 'I then posted two British pickets, one at each end of the street, with orders to allow no Indian to pass and that if they had to pass they must go through on all fours". I infer that you passed this order when you were inside the city? A. Very likely.

Q. You have already informed the Committee and have also stated your statement that you never imagined that any sane man would voluntarily go through under these conditions?

A. Yes, that is absolutely true.

Q. Is it not a very extraordinary coincidence—I call it deliberately extraordinary—that you passed this order which you

considered at that time would be a dead letter because you thought that no sane person would voluntarily go through the street on all fours, and all of a sudden you moved a few hundred yards and then you felt the necessity of arresting 12 persons for no edifying offence and these were the very 12 persons who for the first time obeyed this order.

A. I went to the city after posting my picket. There were certain insolent inhabitants and I arrested them and handed them over to the police. I do not see anything extraordinary in it.

Q. In your opinion the police were quite competent to do its duty ?

A. I presume they may have been.

Q. On the 13th when you left Ram Bagh for the Jallianwala Bagh, is it not a fact that you practically on two or three sides surrounded the Jallianwala Bagh with pickets and you left a picket at Sultanwind gate ?

A. I think they were at Lahore Gate, Hall gate and another gate. At the other gate I do not think there was, there was a picket but my information is there was not.

Q. If a woman is found wounded at the Sultanwind Gate, can you give us an explanation how she was found there !

A. On the 12th or 13th ?

Q. On the 12th. A. I do not know.

Q. If it was on the 13th ?

A. It might be possible a stray bullet from the Jallianwalla Bagh might have hit her. Beyond that I cannot give any explanation.

Q. If some wounded person were found on the second storeys of buildings, there how do you explain that.

A. Probably bullets have strayed.

Q. If there be marks of blood on the second and third floors of buildings, would it not show that there was overhead firing.

A. Certainly not. I never gave direction for overhead firing. I directed fire personally and I can tell you what orders I gave. I never gave any orders for overhead firing. Certainly not. Absolutely not.

Q. You never gave a moment's thought as to what would happen to the bodies of these 400 or 500 killed inside the Jallianwala Bagh and these wounded, as to how they will be attended to by their relations as to how water would be given to the wounded ? You never cared for them ? A. How do you know.

Q. How was it possible ?

A. They could bring them, when they liked.

Q. If they had gone there disobeying the curfew order you would not mind it ?

A. They asked for permission and I gave it and said they could go.

Q. Your permission was for the removal of the dead bodies. Did you make any proclamation saying that to-day I modify the curfew order? A. I allowed them to go and remove the dead.

Q. Did you in any way modify the curfew order?

A. It was probably modified.

Q. On the 13th?

A. Probably. I think you will find it in these papers.

Q. Did you issue any proclamation saying 'I modify the order and people are allowed to remain outside up to 12 o'clock'?

A. I allowed them to go and take the dead. I thought they would be removed by night.

Q. That is no answer to my question?

A. I cannot tell you I allowed them to go and bring their dead. Therefore orders must have been passed.

Q. If the order was modified, how is it that you went into the city at 9p. m. to see if your order was obeyed or not?

A. I don't think I went out at 9. I think it was later.

Q. This is the first time that we have been informed that the order had been modified. Permission to remove the dead was issued on the 14th? A. Yes.

Q- So long as you remained in Amritsar was there any evidence, apart from the inference, placed before you to show that there was an organized conspiracy?

A. From what was happening in Amritsar and elsewhere I formed the opinion that there was a widespread conspiracy.

Q. Apart from inference was there any tangible evidence produced before you to show that there was organized conspiracy in Amritsar or what happened there was the result of that conspiracy?

A. They were talking all sorts of things. There must have been organized conspiracy all along the line as far as I can judge.

Q. When you went to Jallianwala Bagh there was no apprehension of your being attacked?

A. There was certainly a possibility.

Q. Did you take a large number of police also with you to the Bagh and left them outside just close to it?

A. I do not know how many policemen were there, nor did I care.

Q. When you arrived at Amritsar on the 11th there were 475 British soldiers and 710 Indian soldiers and on the.. there were 530 British soldiers and 635 Indian soldiers? A. Quite right.

Q. Your source of information as to what was happening in the

city on the 12th and 13th—exept what you saw with your own eyes—was Ashraf Khan and nobody else?

A. There were officers and lots of people.

Q. Lots of people visited you on the 12th and 13th?

A. I cannot say.

Q. Lots of people came and gave you information?

A. I say, not.

Q. Suposing between 400 and 500 were killed in the Jallianwalla Bagh. What would be the proportion of the wounded?

A. You will have to multiply it by three, it may be more.

Q. Is it possible that one bullet would kill two or three persons?

A. Quite possible.

Q. You had already made up your mind at Rambagh that you had a very unpleasant duty to perform and that you would have to do it? A. Yes.

Q. Did you make any ambulance arrangements?

A. No time to do that.

Q. Was it brought to your notice that the dead bodies were mutilated at night? A. Never heard of it.

Q. Are you or are you not aware that so far as India is concerned Martial Law can be introduced only by certain individuals? A. Yes.

Q. In any fixed area can any officer proclaim Martial Law and appoint officers for the purpose of trying cases?

A. If there is a rebellion one would assume charge, the man on the spot, and it will have the effect of Martial Law.

Q. You could not get these orders from the Lieutenant Governor either by aeroplane or wire? A. We could have not.

Q. Could you not have obtained orders from the Viceroy?

A. Absolutely not. The situation was developing very fast.

Q. You would not wire to the Lieutenant Governor telling him that the situation was serious and get orders?

A. I think the Lieutenant Governor knew the situation as much as I did.

Q. Can you tell me why was it not possible for Mr Irving to inform the Lieutenant Governor that Martial Law should be introduced on the evening of the 10th?

A. I say all things are possible.

Q. When he was handing over charge to you did you ask him why he did not ask permission of the superior authorities?

A. No. It was handed over to me and I thought I could manage it all right.

Q. I want to ask you a question on the point whether you assumed authority on the ground that you felt that the situation

demanded it or because the Deputy Commissioner had given you charge and that written document ?

A. I was the Officer Commanding in Amritsar as well as Jullundur. If the civil law failed or ceased to operate it is my duty to take things in hand until I get further order on the subject. So I took the situation in my hand.

Q. After the civil authority was handed over to you and you assume supreme authority in Amritsar you could act independently by virtue of your own position ?

A. As in extreme case I could. If the situation suddenly developed which demanded my assumption of responsibility it was my duty to do so.

Q. May I know the conditions prescribed which would constitute an extreme case which would justfy you to assume that command ?

A. Well I honestly considered that there was a rebellion and that it was my duty to take the responsibility.

Q. You had no orders ? A. No.

Q. There must be some orders, written or verbal ?

A. I do not know of any order which will exactly suit what happened.

Difference Betwteen Rebellion And Civil Disorder.

Q. What is the diffrerence between rebellion and civil disorder ? Do you consider them one and the same thing or different thing ?

A. I should think if civil law has ceased that a rebellion is out. I should think the two things are practically the same. But I am not a great expert on law.

Q. In appreciating the situation which would enable you to take drastic powers over a large number of His Majesty's subjects you have to exercise your judgement and see whether there were certain things which you would call rebellion. I assume you have a very clear notion as to what rebellion means.

Q. I think so. I have to run the risk but I have got to do it.

Q. In your opinion ceasing of law and orders is tantamount to the existence of rebellion ?

A. I should say very nearly that. If there is something serious going on rebellion would come in.

Q. You certainly understand what rebellion means ?

A. I think I do. But we may make errors in judgment.

Q. Very well, but certainly you cannot have any doubt as to what constitutes rebellion ?

A. In my own mind I will say this is rebellion; another man will come and say this is not rebellion, I knew when I began to

take responsibility. If I was wrong in my judgment I should probably suffer.

Subverting the Authorities by means of canes.

Q. You said the people were going to carry out their intentions of rebellion by meants of canes ?

A. Yes, to be armed properly.

Q. I have just been asking the question probably according to you there was some orginisation behind the movement. So I take it there was some intelligent people who were directing the movement : do you think any man of sense could think of subverting the authorities by means of canes ?

A. A small army of men armed with canes. It is quite possible.

Q. Do you think this organised mob could successfully, under any conditions be opposed to the forces of the Crown.

A. Not very long. In places like Amritsar or elsewhere where the garrison is small, then they might suddenly attack and disarm the military forces and then having a little success they may even get them over to their side.

Q. But it wont last long ?

A. I do not think so but a great deal of damage might be done in the mean while.

Q Were you not told on the 11th that it was a vey small proportion of the inhabitants of Amritsar, who were causing disorder and that there was a large number of citizens who were law-abiding ?

A. I might have been told. But there were very large crowds. Therefore it looked as if a great many people had joined them because law and order was at an end. There would have been lots of men who if they were guarded would not have been disloyal.

MR. P. MARSDEN S. D. O., KASUR.

Examined by Mr. Justice Rankin witness said Martial Law was proclaimed in Kasur on the 16th April. It was Martial Law ordinance No I

Q: Have you been able to collect any definite evidence as to what it was that caused the excitement that broke out in a riot on the 12th?

A: Well, on the 11th there was the news about Mr. Gandhi's arrest which increased the excitement. Then they had a meeting on the 11th and people were more excited after that. Early in the morning of the 12th they started moving about in the town and they got more and more excited. They then arrived at the station and the excitement was such that they did what they had done.

Q. Do you attribute it to the news being received of what happened at Amritsar and Lahore on the 10th?

A: I do not think that was very largely the cause. On the night of the 11th they only heard vaguely of what had happened at Amritsar and Lahore.

Witness said: One Hindu pleader said that they were like 'unarmed cattle' in the eyes of Government. He said the Rowlatt Act was like a rope round their necks, and so on. I should say in that state of excitement of the crowd he ought not to have said that. I should also mention at that time he had never actually read the Rowlatt Bill but had only seen it in the Tribune. That was a veey great responsibility and it showed that he relied on distorted versions in the public press. He never attempted to tell them what the Act really was. He simply implied there was something horrible in it. That was the effect on the crowd.

Q: Were any of these pleaders arrested on charges of uttering sedition.

A: No, none except those mentioned.

Lala Dhanpatrai was arrested at the martial Law proclamation, because the higher authorities came to the conclusion that he was causing trouble and he was removed for sometime. Mr. Golam Mohiuddin and Mr. Abdul Kader were arrested for having taken part in the riot.

Q: Apart from the firing by the soldiers who were attacked, how many times did the Police or the Military fire?

A: The Military never fired, except the two shots by the sentry.

Q: On how many occasion was there firing?

A: When they were just about to burn the Tashil. That was the only occasion. I was not there at the time.

Q: As far as you observed, was any distinction made between respectable and lower class men as regards punishment for breaches of martial law order?

A: If a man was of respectable class he was fined, and if of a lower class he was probably whipped. I am going actually on the cases supplied to me.

Q: As regards the school boys that were whipped, you said the school authorities themselves were not doing well?

A: Yes.

Q: I did not quite catch the meaning of that expression.

A: The Head Master was an old feeble sort of man, quite unable to keep order and one of the masters had actually been found to be leader of mob and the procession in the city during the disturbances and we all were very doubtful as to the attitude of the other school master. At least, they did dot seem to be in a hurry to punish their students for taking part in the riot. And a large majority of the boys were running about, taking part. Then the school master said: kindly give me military guard, my boys are very insubordinate.

Q: Insubordinate to their schoolmasters? A: I suppose so.

Q: The boys had been cheating him or something you knew they were doing by way of disorder?

A: I took his meaning to be that they were still under great excitement and could cause mischief.

Q: What was the date approximately? How long after the riot?

A: I should think it was about 6 days after. He was asked to select 6 boys—and the master of the other school. But the result was that 6 boys were produced who were obviously of the lower class being badly clothed. The Military Officer said you must not select miserable specimens.

Q: So those boys were rejected.

A: Yes. The Head Master would not select anyone. The boys themselves were told to select. Anyway, 6 other boys were then selected.

Q: How many stripes were then given?

A: The 3 big boys 6 each and the 3 small boys 3 each.

Q: Was it to make Kasur fall in line in the passive resistance movement? A: That was the idea.

Q: Not with a view to instigate to rise against the King Emperor?

A: I think there was pressure of that sort. At Patti there was a regular system by which lectures were delivered and people were excited. One of these men said, "You should obey the King but not his servants."

One School Boy Hanged

Continuing witness said one school boy had been sentenced to be hanged.

Q: What was the age of the boy?

A. 17 years. I think it was merely the atmosphere of excitement which was the cause. They could not help themselves.

Continuing witness said at Patti 31 were convicted and 15 acquitted. Of these 31, 14 were sentenced to be whipped. At Kasur 30 were convicted and sentenced to be whipped, but in all 40 were whipped. There were 4 men of Patti who were whipped by order of the Officer Commanding and 6 school boys. The total number of stripes was 710 so that the average was 18 stripes for each individual.

Q. To what caste did they belong to?

A. I understood they were of the lower class. I never actually saw.

Q: Of what age?

A: Except the school boys they were all of mature age. Three school boys were of 16 to 18 years and other three were of 13 or 14.

Q: Why were they punished?

A: The headmaster asked the O. C. the boys were getting insubordinate and asked if he could have military help. The O. C. thought he could not give military help and he thought that whipping was the best thing. So he called the boys and got them whipped by a Sikh drummer boy. Moreover the school authorities were themselves not doing well.

Q: Where were they whipped? A: Just outside the station entrance.

Q: In public? A: Yes. it was in the presence of the whole school.

Q: There was no whipping in the school premises? A: No.

Q: What was the object? A: There was no particular object.

Q: Were it given in serious cases or for all sorts of offences?

A: All sorts of cases. For rioting or burning of the station, I remember 4 or 5 were whipped because they had trespassed into a woman's appartment, 2 or 3 had assaulted the Lambardar and a large number for miscellaneous offences.

Q: Did this whipping take place in public or private?

A: I have explained they were whipped on the station platform which was then the Military headquarters. The platform was closed to the public at that time, so it is a question whether it was private or public. They could not be seen by people outside.

Q: Did all the whipping take place there? A: Yes. They were all on the station platfrom, execpt only in one case which might have been seen.

Q: Did you make investigations into certain rumours as to the causes of the unrest such as recruiting?

A: Yes, I was very careful to find out about that. I found there was absolutely no cause for complaint in any respect. In fact, it was such a backward place that there was no recruiting at all. The number of recruits was extremely small.

Q: Were the causes of unrest connected in any way with recruiting?

A: I do not think, it was at all.

Q: During the administration of martial law there were two cases of where men were shot by sentries?

A: Yes, one case was at the station. The British sentry at the station entrance saw someone creeping forward. There was a dust storm at the time and it was difficult to see how many people were there. The sentry challenged the man repeatedly in English and in Urdu, but received no answer and the man ran towards him. The sentry tried to catch the man but he eluded him. So he fired and the man was killed. It was afterwards found that the man was deaf and dumb. It was an unfortunate incident. In the other case, which happened in a village, I was not present.

Q: Were any complaint made regarding the administration of martial law?

A: There was no complaint whatever at the time. Captain Doveton seemed to be extremely popular. He seemed to gather people round him and to talk and chat with them. But right towards the end of his time when Martial Law had been removed from Kasur proper, there were one or two who complained that he was doing things they did not like. What happened was Captain Doveton did not like to go through the formalities of trial and sentence; he wanted to do things summarily. He used to make people mark time and climb ladders. Even that was not complained of by the people at the time. They seemed to be very amused by it. They did not regard it as an act of tyranny. There was one thing which I thought to be serious. A Sadhu had been whitewashed by the Martial Law administrator. But I asked him about it and he said it was not true.

Q: Was a scaffold erected in public? A: Yes.

Q: Had you contemplated execution in public?

A: That was the idea.

Q: That was abandoned? A: We started putting it up on the 3rd of May but on the 9th May Government ordered it to be removed. By that time it was not completed.

Q: The practice of execution in public has been long in disuse?

A: Yes, but the idea was to have it on the actual scene of the murder of those two warrant officers.

Col. Macrae Was Responsible.

Q: Who was responsible for this?

A: Colonel Macrae was responsible. He was the officer commanding at Kasur at that time.

He took over charge of Sub-divisonal Officership on the evening of the 15th. He never heard that any disturbance was caused by the crowd after 3 p.m. on the 11th. After 3 p.m. nothing occurred in the city. It was quiet.

Q: You were also informd that the police were able to make arrests on the 11th itself?—A: On the 12th.

Q: You were not infromed that any police officer were assaulted on the 12th or subsequent date?

A: Attempts were certainly made to assault. On the 12th the mob endeavoured to burn down the tehsil and a Sub-Inspector of police was attacked and the Munsif was standing on the roof of the house and the crowd was going to burn.

Q: Did any one of the these officials ever make a report to you that an attempt was made to assault them?

A: I do not think so.

Q: According to the Government case, although those two soldiers at the station emptied the chambers of the revolvers they did not do any damage to the crowd?

A: One man was injured.

Witness explained that an informer said that the soldiers fired one round first, then another and then another. But another man, a contractor, said that they fired considerable number of rounds.

Q: This report is practically an abstract of the report which you submitted in obedience to the circular issued by the Lieutenant Governor?—A: Yes.

Q: Instead of mentioning that these two officers were stoned you said here:—The crowd followed it and inside it were two warrant officers. They got out and stood at the door of the carriage. The crowd were.....about 60 yards off throwing stones on the two men. One fell on the two men. They lost their heads and fired all rounds without doing any damage.' This statement was made to the Lieutenant Governor in June or July?—A: Yes.

Q: I think it was a true version of what was your knowledge then.—A: Up to that time that was correct.

Q : So far as your knowledge goes none of the mob was killed at the railway station ?—A : No.

Q : Were you informed in the course of the investigation that an allegation was made, that previous to what happened to these two soldiers two persons were killed ?

A : I never heard of any such thing.

The C. I. D. Report.

Proceeding witness said that none of the other soldiers except these two had arms. He proclaimed martial law at Kasur by holding a Durbar. Dhanpat Rai was arrested there under Col. Macrae's order. Witness delivered no speech then. The age of Dhanpat Rai was 60. He was not a leader of the bar to his knowledge. At the time of his arrest there was no information as to his committing any offence on the 12th. So far as his information went his arrest was not due to any action on his part on the 12th. The Commissioner sent orders directing that he should be arrested and removed from there. He was not arrested for taking part in the hartal meeting of the 11th. He had a black record and was considered to be a dangerous man. He was father-in-law of a man who tried to foment rising among troops (Ajit Singh, who was deported in 1907 with Lala Lajpat Rai). One Rahim Bux was deputed to take down notes of the speeches at the meeting of the 11th. From that report they would find that so far as the principal speakers were concerned, except one they were trying to pacify the crowd and that their speeches were moderate. He did not accept the report. The man did not give him any information about the speeches.

Q : Have you read General Beynon's order.

A : About the Rowlatt Act?

Q : Not Rowlatt Act but Martial law. A : I have read it.

Q : Have you read the Defence of India Act.

A : I have read it.

Q : Do you remember the provisions ? A : I forget.

Q: Do you know what were the two important facts that were passed between 1908 and 1915 amending the Penal Code ?

A : I cannot tell you the details now.

Q : Do you know what they were about ?

A : Which Acts you are speaking about ?

Q : The recent amendments of the I. P. C.

A : I recollect no particular changes.

Q : I think you will agree with me that at least in a majority of the places all over the world in every political agitation people take their cue from the leaders and it is for every one of the rank and file to study all political questions, to read all Acts and to come to conclusions ?

A : I do. Q : Therefore I think no crime was committed by these moffusil leaders living in Kasur where there is no political life—

Witness interrupting said—There is political life distinctly—

Q : You will not blame them if they adopted the view that was put forward before them by their own press and by their own leaders ?

A : It is foolish irresponsibility.

Q. Your experience of your own country is that every one of the rank and file should form opinions on these matters and study every political problem ?

A : I do not call them rank and file. There are three men who were keen on Congress. They are by no means rank and file. They are leaders, responsible leaders or they should be responsible leaders.

Witness added that he said they were leaders of the hartal' movement because they admitted so.

Q : If the shopkeepers went to them and said 'Let us have a meeting and some speeches' that does not show that they were leaders of the hartal movement ?

A : The leaders also wished to have hartal.

Q : In your own country you think that men of the position of these pleaders do not rely upon what view is taken by important papers like the "Times" or by towering personalities like, say, Gladstone, but every one of them reads every act and studies questions and forms responsible opinion ?

A : They are certainly better informed and take trouble to study—

Q : That is due to the difference in education in India and England ? A : To some extent.

"No Responsible Government in India."

Q : And the difference that there is responsible Government there and there is no responsible Government in India ?

A : I do not think that affects it.

Q : Is it not a fact that all these pleaders who were arrested and who were never brought to trial were arrested because the authorities wanted to kill political life in the whole province and because they have taken part in the meeting on the 11th although that meeting was a moderate meeting ?

A : Lala Dhanpat Rai who was arrested did not speak at all and the other two arrested were not arrested for that at all.

Q : In your statement you said that all the things done by Martial Law authorities were relished and approved of by the people. Are you still of the opinion that the people relished and approved of all these things ? A : Obviously.

Q: From November 1918 to April 1919 did the authorities, to your knowledge, take any steps to meet, according to you, false rumours?

A: They did not do. Q: You did not blame them for not doing it?

A: I was not there. I did not blame.

Q: But you blame the pleaders? A: Yes, I do.

Continuing witness said that Ghulam Mohy-ud-din had said at the meeting of the 11th that the Hindus and Mussalmans had one head, two hands, two feet and they should act as one man. This was the worst sentence in the opinion of Mr. Marsden in the speeches delivered at the meeting.

Q: You have stated that the military authorities were allowed to go to the villages to arrest people, have you not?

A: They were allowed to take steps they considered necessary.

Q: Who gave them information?

A: Information was given to the police and they informed the military of that.

Q: Did that information contain names? A: Yes.

Q: And that information was reliable information? A: Yes.

Q: That information was taken down in writing?

A: I expect so.

Q: And on the basis of that information a very large number of arrests were made? A: Yes.

Q: All those arrests were made between 12 in the night and 4 or 5 in the morning? A: Yes.

Q: Any hostages taken from the villages?

A: I think some were taken from Patti. They were not brought to Kasur.

Q: There was something like a cage out side the railway station? A: Yes.

Panditji: I think at certain times the number of persons inside this cage was 107 or 108?

A: I do not think it was more than 70 or 80: I am not quite sure.—Q: They could be seen by the public?—A: Yes.

Q: Were the pleaders arrested, handcuffed and taken through the bazar?

A: Yes, they were handcuffed and taken to the railway station.—Q: Why was Dhanpat Rai handcuffed?

A: There was a state of rebellion and you must take precautions.

Q: You thought that this man, who was 60 years old would run away?—A: His rescue might have been effected.

Q: Might have been effected?

A: Of course. Prisoners are always taken hand cuffed.

"Fancy Punishments."

Q: About the fancy punishment you have described do you mean if a person named Kesho Das was made to draw lines with his nose for a period of time ?—A : On paper ?

Panditji: Not on paper, but on ground. His nose is not a pencil (Laughter.) A : I have not heard of that.

Q: Do you remember that a person was awarded this fancy punishment for purchasing rice at more than 4 seers a rupee ?

A : No I can't tell you.

Q: Were not some Arya Samajists arrested because they were Arya Samajists ?

A: No Arya Samajist was arrested at Kasur, but at Patti the Arya Samajists invited Aryasamajis lecturers to deliver some lectures and the police arrested some five or six of them because the police said that they had been promoting disturbance.

Q: Was any evidence produced against them? A: We have a memorandum of their lectures.

Q: And what is the worst thing that you see there?

A: The worst thing that I have seen is this, "You must obey the King but not the King's servants"

Q: When you say that the civil authorities were not able to check what was being done on the 12th, is it not a fact that the civil authorities were informed very late and practically when they arrived everything was over?

A: The riot had taken place and the crowd continued the work of destruction.

Continuing the witness said that the mob first attacked the station buildings, and when the Tahsildar went to bring the Sub-Divisional Officer, the crowd had damaged the rest of the station. The damage was not done when the civil authorities were present at the station. Similarly what had happened to the treasury and the tehsil were also done when the civil authorities were not present. As soon as the Sub-Divisional Officer arrived he gave order to fire. As a result of the firing the mob dispersed. Some seven or eight were arrested and some others were taken in custody because they were wounded. There was a Martial Law order issued saying, that of all those persons who were residents and had gone away did not return to Kasur within a fixed time something would be done to their property. Witnes raised no objection to the order but insisted on it because he wanted those persons who had murdered others. Among the names of outsiders who were present on the 12th was one Dani Ram of Amritsar and another who was Sadhu also of Amritsar. The Sadhu, witness believe, always lived at Amritsar. Except these two, he was not able to trace any other person. He did not consider the

Sadhu to be a political leader of any place. It was true that the mob first went to damage the office and were going away when somebody stood up before them and after addressing them brought them back. The object of the crowd, it was alleged by some, was to cry 'Hai, Hai' and make other demonstrations to indicate their opposition to the Rowlatt Bill, before some Europeans who would be going by the trains that would be passing the station. There might also have been some intention to do damage to the railway station, but he took it that they wanted to wreck the train. From his enquiries it was his opinion that the zamindars were not connected in the troubles at all, but only the budmash element in the villages. There were statements to the effect that there was no trace of any general rising or that any band of men were laying in wait outside Kasur, but he did not believe them. People as a whole were refused permit to go outside Kasur and propably there were some pleaders also who were not allowed to go on professional engagement. But he remembered that some pleaders were allowed to go.

Q: Was it a fact that those pleaders who were considered loyal were allowed to go and those who were considered to be seditious or agitators were not to go?

A: I don't think that was the case. Each application was considered on its merits, whether he was a pleader or not.

The name of the man who harangued outside the station was Kamaludin ; he was sentenced to be hanged but subsequently his sentence was committed to seven years. He did not quite remember why the incriminating cry of the crowd was omitted by him from the report, the cry of 'The British Rule is at an end.' He heard that another villager was shot down on the ground that he threatened a soldier with a lathi. He thought all those persons who were in arrest for a long time without trial were brought to the railway station, and were present at the lecture. The flogging that was going on at the platform could be seen by the people outside, and at the time of flogging there were no other people except the station staff. No wire was cut after the 17th or 18th. After the 18th there was no other occurrence except that which happened on the 23rd. Except that a large number of persons were arrested on suspicion and flogged and punished under Martial Law, the presence of the soldiers in the district outside Kasur helped to keep the budmashes in order. There was still a large number of budmashes for when they were searching the houses of villagers they found weapons of some budmashes.

Q: If instead of inflicting punishment according to the Indian Penal Code or Criminal Procedure Code you take recourse to summary procedure for every offence and prescribe punishment

of flogging or shooting, do you think that the crimes will go down to a very large extent, and would that be reason for the enforcement and maintenance of Martial Law?

A: I looked at it and I don't find that the number of crimes is going down.

Q: Then, there is no necessity for Martial Law?

A: The presence of the troops was to keep them from showing those tendencies which they otherwise would show. For instance if there is 'hartal' to-morrow they would be very much emboldened to create some trouble.

Q: Then, do you mean that there is necessity for Martial Law even now? A: I think so.

Q: So in order to enforce order the maintenance of Martial Law is absolutely necessary?

A: No. I say the situation at any moment may prove to be dangerous.

Q: Even now the situation is the same?

A: Not the same, but still dangerous.

Witness continuing said that he was not against holding political meetings but against 'hartal,' practically the 'hartal' at Kasur was brought about by pressure from outside. Witness believed that 'hartal' was going to be absolutely indefinite so long as the Revolutionary Crimes Act was there.

Q: Throughout the whole of the Punjab no disturbances or wire-cutting took place after the 18th instant. A: That is so.

Panditji: Therefore I should like to know why if Martial Law was necessary in the first instance, it was necessary to continue it after that date.

A: Because the same causes which had caused the introduction of the Law were still in existence. The anarchical crimes are still in existence. Mr. Gandhi is still in existence.

Q: Yes, I have heard that revolutionary crimes are still in existence, Mr. Gandhi is not dead, Rowlat Act is not dead. And so far as India is concerned you are of opinion that for the maintenance of peace and order enforcement of Martial Law must be always kept ready?

A: It should be ready because ultimately all authority depends on force?

Panditji:—I know that philosophical proposition. Then so far as India is concerned you are of opinion that the maintenence of peace and order depends upon the use of force and the measures which the Government have not already availed itself of?

A: That is the case in every country.

Q: Have you ever found anywhere else that Martial Law was introduced in these circumstances?

A: I didn't say Martial Law. I only said that all authority depends on force.

Q: Are you in favour of Khilafat movement ; (Laughter.)

A: Khilafat movement? How can I say that.

The President here intervened and the question was dropped.

Q: Do you know anything about Criminal Law Amendment Act III of (1908)

A: No ; nothing about it. I had not come to India at that time (1908.)

Q: When did you came to India? A: 1912. Witness did not know the provisions of the Criminal Law Amendment Act.

Q: Being a first class magistrate entrusted with the lives and liberties of the Indian public how is it that you did not know anything about the provisions of the Act with which you have to deal in every-day life and yet you blame at the same time that the pleaders were not quite conversant with the provisions of the Rowlatt Act?

A: I was not making a speech about the Criminal Law Amendment Act, as the pleaders were doing on the Rowlatt Act.

Q: Therefore you mean that a man who is making a speech should be more careful than a man who deals with the lives and liberties of the people? (Laughter.)

A: Your logic seems to be defective.

CAPTAIN DOVETON.

Examined by Lord Hunter said that he administered Martial Law in Kasur for some days. In connection with the punishments administered under Martial Law witness did invent some minor punishments, but they were in the case of those who in any way resisted authority. He started punishment about the end of May and continued until the Martial Law was removed. It was less severe than the ordinary Martial Law punishment.

Q: There is a suggestion that you ordered a Sahdu to be whitewashed? A: That is simply wrong.

Witness then explained that there was a particular piece of work to b done at the goods shed and the Sadhu was asked to load and unload lime there. And as it was a rainy day, it was quite possible that the Shadhu had been covered with lime and then he got wet.

Q: It is further suggested that you ordered some men, by way of punishment, to draw lines on the ground with their noses?

A: That is incorrect.

Q: Can you account for such a rumour being started?

A: I can't. The most that I did was to order the convicted men to put their forehead on the ground before me. It was simply to make the people acknowledge the authority, but not a punishment.

Q: Did you ever hear it made as a complaint? A: Yes.

Q: When was the general order relaxing the Martial Law orders issued? A: They were relaxed by degree.

Q: I suppose the public of Kasur would have been considerably inconvenienced by some of those orders? A: Yes.

Q: Particularly in the case of the order about travelling?

A: That was relaxed before any other order?

Q: Did you yourself deliver lectures to the people of Kasur?

A: Yes. I delivered lectures on the general situation and tried to make them see things in their true perspective. In fact, it was more in the nature of advice.

Q: Had you made yourself familiar with the provisions of the Rowlatt Act?

A: I would not have been an authority on that. But the main point of my lectures was to show that there was really no great hardship in passing the Rowlatt Act, and that whatever hardship it involved, did not justify the action (disturbance) which took place.

Q: Generally you discussed the Rowlatt Act with a view to removing the suspicion as to the provisions that had arisen in the people's mind owing to the rumours? A: Yes that was so.

Q: I think that at one of your lectures you had the assistance of one of the pleaders?

A: Yes. When I finished my lecture I asked Maulvi Ghulam Mohiuddin to make a few remarks.

Q: Do you know why he was arrested? A: I understand he was arrested without any charge being made against him.

Q: Did he make a speech according to your satisfaction?

A: Satisfactory in every way.

Q. Were you present at the time of whipping?

A. Yes: in nearly all cases.

Q. Do you know that some people succumbed to the injury?

A. Not to my knowledge.

Q Do you know of any case of collapse? A. I did not see.

Q. During your time there was no whipping in the public at all?

A. It was entirely private. There were three boys, quite children, who were sent down by the Special Tribunal at Lahore to be punished and I thought that it would be better if the school boys at Kasur were present to witness the whipping.

Q. In one case you administered a considerable number of lashes and also two years' rigorous imprisonment ?

A. The maximum imposed was 2 years, 30 lashes and Rs. 30 as fine.

Q. You suggest that "the people generally did not object to Martial Law." How do you say that?

A. Generally, the people expressed themselves like that. In fact, I was told that the people appreciated Martial Law more than any other.

Q. Did you ask anybody to do skipping?

A. As regards the skipping, it was suggested to me by an accused person. He came and told me he would do skipping if he was excused the punishment. The skipping was 20 times without breaking.

Q. He made that offer and you took him at his word ?

A. Yes.

Q. And after that you inflicted this skipping punishment on those who did not ask for it ?—A. Yes.

Q. Of what ages were the people who were made to skip ?

A. I should say people of middle age.

Q. How much ? A. 20 without break.

Q. How many people do you think were given this punishment ?—A. At least 20.

Q. You will agree with me that it rather tended to bring the proceedings under contempt ?

A. I don't know that it brought the proceedings under contempt. It acted as a deterrant.

Q. Apart from skipping was there any punishment like climbing the ladder and other forms of manual labour ? A. Yes

Q. It was alleged that some Sadhus were ordered to be whitewashed by you as a special punishment ?

A. That is not true. Among those who were sent to work in the goods shed were some Sadhus and, as they had to work at lime, they were covered with lime like that.

Q. How many ? A. I think four or five.

Q. What were these people guilty of for which they were punished to work in the goods shed ?

A. I am unable to tell you that.

Q. It must be for being truculent or defiant and in addition owing something to the railway company ? A. Not necessarily.

Q. They may have committed some other offence ?

A. I think it quite possible.

Q. Then you say in your statement that "similar treatment was meted out to all persons who threatened railway officials..... and made a show of violence....." ?

A. That is so. If a person was brought before me by any railway official with the complaint that that person used threatening language or some thing of that kind, I enquired into the case and decided what was to be done.

Q. So, if a person used threatening language to a railway official, you sent him to work for a day or two in the goods shed in the manner you have described? A. Yes.

Q. How many people were made to put their forehead on the ground? Must be quite a large number? A. Yes.

Q. And the offence with which they were charged and convicted were of a varying degree and gravity? A. No.

Q. You dropped this punishment because people had come to a reasonable frame of mind? A. Exactly.

Q. Was this done in order to induce a reasonable frame of mind?

A. I don't say so. The main point was to impress upon the people that everybody was not his own master and that he had got to conform to the law and order.

Q. Was this not sufficiently done by convicting and sentencing them? A. Yes.

Q. Then why on the top of it did you inflict the punishment of putting their forehead on the ground?

A. I don't think that it must have been felt by them as a humiliation.

Q. Have you ever observed in ordinary life any person putting his forehead on the ground in the manner you insisted on their doing? A. I had observed this done to a wealthy Indian.

Q. Is that an ordinary thing? Have you seen it in ordinary life? I can well understand doing that before a religious leader, or a saint: but have you ever seen people in ordinary life doing this before any other person. A. I have.

Q. How often have you seen that, Captain?

A. I am unable to say.

Q. Then you speak of the lectures you gave at Kasur?

A. Yes.

Q. You say you had a straight talk with them. What sort of straight talk? A. It was all reported by the Police.

Q. Can we get a copy of it? A. It should be possible.

Q. Then with regard to whipping. You inflicted whipping in 40 cases? A. I think so.

Q. As regards reprisals against property, you visited six houses and in some places you burnt the clothes, destroyed vessels. Do you think that was justified by the Martial Law Order? A. Yes; I do.

Q. These houses were the houses of poor persons, not rich people? A. Certainly not rich people's.

Q. You know that gallows were put up at the railway station at Kasur? A. Yes.

Q. Was that done by your order? A. No.

Q. Was it done by G. O. C's order?

A. I can't tell you if it was done by the order of the General Officer Commanding.

Q. You were the Martial Law Administrator. Nothing could have been done without your knowledge?

A. I was not an engineer.

Q. I don't suggest that you should be an engineer. But I say nothing could have happened without your knowledge or order. I want to know how the gallows came to be erected?

A. A man came from Lahore and the thing was duly erected.

Q. He erected them without asking your permission?

A. I was perfectly aware of what was going on.

Q. But under whose order was it done?

A. The Military officer who has been watching the case on behalf of the Military informed the committee—"This was an order by the Commissioner under the orders of the Government."

Q. The Commissioner may or may not have ordered, but surely, Captain, you were the Administrator of Martial Law and as such, you should have known?

A. It was not my business to interfere with the erection of gallows.

Q. Were a large number of people arrested at Kasur?

A. A very large number.

Q. Where were they kept? A. In the prisoner's cage.

Q. You say that Martial Law was liked by the people?

A. I was so given to understand.

Q. So much so that they like Martial Law to be permanent in Kasur?

A. I gather that they preferred Martial Law to the ordinary administration and that they welcomed it as a permanent sort of administration.

Q. Did people actually come and tell you that they would prefer Martial Law to the ordinary administration?

A. They liked summary courts.

Q. They liked to be tried summarily without any right of appeal?

A. They preferred that to spending money on appeals.

Q. People do not like to spend money on appeals?

A. I merely tell you the opinion that were expressed to me personally.

Q. Then you say that they were so much pleased with the administration of Martial Law that they actually presented you with an address? A. Yes.

Q. Can you give me the date?

A. I can't give you the date. I forget it. I think in the beginning of June.

Q. Were the leading men present when the address was given?

A. They did not sign the address. I can't tell you, and I have not got it here.

Q. What did they say in the address?

Witness did not reply.

"Willing Slaves."

Q. Then referring to that you say that they were "willing slaves." What do you mean by that term?

A. The term is not used literally. "Willing slaves' means willing to work in the way you require.

Q. Did you think that they very much liked Martial Law?

A. I Don't know. I am not sure.

Q. May it not indicate the contrary—that they were so much afraid of Martial Law that they were prepared to do anything and everything?

A. It is the cheerful way of doing thing.

Witness was then examined by the Hon'ble Pandit Jagatnarain.

Q. What Dhanpat Rai and Mohiuddin told you, you took that to be genuine?

A. I had no reason to believe to the contrary.

Q. Would a man having commonsense take it as genuine if a man who was innocent, but who was arrested, handcuffed and roped and kept in confinement for a great length of time, against whom no charge was ever brought, if he comes and speaks in praise of British Justice?

A. I did not think it was not genuine.

Q. Is it not a fact that the people were so much terror-stricken and had lost so much of their self-respect that they came to kiss the hand that licked them and instead of expressing resentment they made that profession of admiration for British Justice?

A. They certainly did not resent.

"Mercifully Flogged."

Q. These men who were so mercifully flogged by you in order ve them from other serious punishments, if they had expressed

any resentment or objected to express their gratitude would they not have made matters worse and would have had another flogging ?

A. Nobody expressed any resentment at all.

Q. You do not think that this was the result of abject terror ?

A. I did not see any sign of it.

Q. Was there any need to send those prostitutes under escort ?

A. Very much.

Q. If these prostitutes had gone without any escort there would be some danger ?

A. I cannot say that definitely but I was given to understand that they were at the bottom of a very large amount of trouble in Kasur.

Q. Is it not a fact that when you asked Golam Mohiuddin to address the people on the Rowlatt Bill your idea was to put him in a tight corner ?

A. No, I wanted to clear him.

Q. Your idea was in your presence he would prove himself to be a turn-coat ?

A. I wanted to give him a chance to clear himself.

In your report at page 13 you say, "If he is guilty of the things of which we suspect, he must have proved a turncoat before the audience" ?

A. That is so.

Q. About two dozens of people were not found in their houses and you gave them three or four days time to return and after that their property was destroyed. I want to know whether there was a proper proclamation—whether any evidence was recorded or heard by you or not before you destroyed ?

A. It is sufficient for me that the people were not present.

Q. Had you any information that these persons had information of your order.

A. The relatives were warned to communicate immediately with the absentees.

Q. No evidence was taken by you as to whether the relatives had been able to communicate with them or not ?

A. I do not remember.

Q. Therefore these steps were taken by you without satisfying yourself as to whether they were aware of these regulations or whether they were communicated with or not ?

A. There was no time for any lengthy procedure. It was time for action—for rounding up people.

Q. You considered yourself justified in doing what you did without satisfying yourself whether these men were deliberately keeping themselves away or not ?

At this stage General Barrow said to President: My lord, may I point out he is an officer who did his duty under very trying circumstances. He is not an ordinary criminal.

Pandit Jagatnarain: Simply because a witness says I have done it and I am justifiable, it is not my simple duty to accept it and not to sift it, and not to find out what were the grounds on which he felt himself justified—I do not think it is my duty to accept everything that the witness states, but my duty is to sift the grounds upon which he justifies his action.

The President did not interfere but made sign to the Hon. the Pandit to go on.

Witness: There was no time to do any such thing. I had got to act.

Continuing witness said he could not give any name of persons who expressed gratitude in connection with Martial Law. It was a general expression of opinion.

Q. I do not know how the people of other countries feel, but so far as Indians are concerned, they have an absolute horror of being flogged.

A. I do not think it is confirmed to India.

Q. Notwithstanding this fact that the normal punishment was flogging you thought people were quite happy and were expressing their gratitude?

A. Law-abiding people had nothing to fear from flogging.

Q. There was absolutely no certainty as to who was loyal and who not?

A. Of course there was.

Q. You mean to say that the Indian people would be very grateful if the British Government amended the Indian Penal Code so as to substitute whipping for every offence?

A. I have never said that.

Q. I do not understand why they should feel happy?

A. It is not flogging that made them happy. It was the mere fact that things had settled, that people had not to waste their money in lengthy litigation, people were on the whole better off—I am talking of people as a whole and not about individuals.

Q. It appears to me that your fame and the fame of Martial Law was not confirmed to Kasur alone, you say that a large number of people from outlying villages were in the habit of bringing their wrongs and grievances to be righted by the administrator of Martial Law i.e, by yourself?

A. It was within Kasur area—yes it was myself.

Q. Whom did they admire—the man or the method?

A. I think you ask somebody else.

Q. The majority of them went away disappointed, but that did not deter others from coming to you, such was their faith in Martial Law?

A. That is so.

Q. May I take it they were complainants or accused also?

A. I take it both accused just as the others. Of course the accused is not keen on receiving swift punishment.

Examination By The Hon pandit Jagatnarain.

Q. I do not imply that at all. My point is a large number of these persons were passengers and they were detained under that sentence.

A. Yes, that is so.

Q. Under which regulation you so punished them?

"I used my prerogative"

A. I used my prerogative.

Q. You cannot do that if it is not punishable under martial law?

A. It was up to me to preserve law and order and I was to exercise my will.

Q. Have you shown all those convictions for breach of law and order on record?

A. I stated yesterday. I did not show these. These were minor punishment.

Q. Did you try any kidnapping case?

A. I did not.

Q. Is it true that you tried a kidnapping case in which the parties were represented by pleaders, the trial was held at the railway station, some woman complained that her daughter had been kidnapped?

A. Yes, I remember that case. This happened when martial law was in existence over Kasur area.

Q. You considered that you could try the case under martial law regulation?

A. I did not try it for kidnapping but actually for good conduct and public safety; because if such a thing could happen under one's very nose what else could not happen.

Q. Therefore any offence against person and property you were authorised to try?

A. Anything which in any way affected administration of martial law I tried, I had to use my discretion. I was the man on the spot.

Q. He was made to pay for the expenses?

A. He told me he was quite prepared to pay the expenses.

Continuing witness said he remembered the case of one Sundar Das who had purchased from somebody. He was given two months

imprisonment and a fine of Rs. 50 but witness did not know if that particuler man had stripes or not. Witness did not know that the man died the very day he came out of jail. The offence of this man was that he received that stuff (wheat) from another man and was in fact working in conjunction with and conniving at the offence for which the other man was punished. Moreover he made a false statement before witness.

Q. Apart from the address was any poetry composed in your praise ?—A. Yes.

Q. By a Mahomedan ? The punishment you prescribed to him was to compose a poem ?

"Compose a Poem in my Praise !"

A. Yes. When he was brought before me he expressed appreciation of my justice in such flowing terms that I suspected him to be a poet and I asked him "if you are a poet, you can compose a poem."

Q. In your praise ?—A. Exactly.

Q. As regards the drawing line with the nose on the ground the name of the man was Lala Keshodas ?

A. I do not know. This punishment was never inflicted.

Q. He was punished for purchasing four rupees worth of rice and you thought it was a quantity larger than what he ought to have ?

A. I do not remember the name.

Q. You punished certain persons of that name ?

A. It is not true.

Q. Another man was Durgadas who was fined and arrested for not paying rent ?

A. That is entirely wrong.

"Dances with a fool's cap on his head !"

Q. Did you ask any Mahomedan to dance with a fool's cap on his head ?

A. No, but I can tell you what happened. The man was standing on the footboard of a running train and so I made him stand for certain length of time by way of punishment.

Q. It was done with the accompaniment of dancing ?

A. No.

Witness was then examined by Sahebzada Sultan Ahmed.

Q. When you took over charge on the 23rd April were you given any written or verbal instruction as regards your authority ?

A. Some instruction came to me by post, some I think came direct from Lahore division and some came from Forozepore,

Q. When did they arrive—on the same day as you arrived in Kasur ?

A. I was given some telegraphic instructions before I proceeded to Kasur. It is a simple statement of powers.

Q. I want to know what they were.

A. About maximum punishment that was to be imposed—30 lashes, Rs. 1,000 fine and two years rigorous imprisonment.

Q. I want to know whether you were given general authority to do what you thought best in the circumstances or any limitation was put as regards punishment ?

A. The orders I received were brief and anything outside the order I did on my own responsibility. I used my discretion.

Q. Were you told that you could use your discretion ?

A. There was nothing in the orders to say that I could use discretion. One is in the habit of using discretion in the army if a new situation arises.

Q. After your arrival at Kasur did you get any detailed instructions by post or otherwise ?—A. Yes.

Q. Did you get the proclamation issued by General Beynon on the 10th April ?

A. I had several copies.

Q. May I take it that you considered that to be your authority ?

A. Anything in that proclamation might be modified by orders issued locally to suit local situation.

Q. Issued by whom ?

A. By the Officer Commanding Kasur. Col. MacRae.

A. Your authority contained in the general proclamation issued by General Beynon and the local orders issued by Col. MacRae ?

A. Yes, so long as he was there.

Q. When he was not there ?

A. It devolved upon me.

Q. Were you to issue these local orders consistently with General Beynon's proclamation or could you also go outside the scope of the general orders ?

A. None of the local orders went against the General's proclamation.

Q. My question is whether they were consistent with that ?

A. I think so.

Q. Therefore I take it that your authority was limited and defined by the General's proclamation ?

A. What do you mean by 'limited".

Q. Can you go beyond that proclamation ? My question is whether your local orders were to be consistent with the general

instructions or whether you could give any orders which were not consistent with the proclamation ?

A. I believe that under certain local conditions I could to a certain degree go outside the authority.

Q. What was the instruction ?

A. These again I had to use my discretion.

Q. Do I understand that whenever you thought it necessary in the interests of law and order at Kasur to give any orders that might not be within the authority given to you by the proclamation you gave these orders ? A : Quite so.

Q. Therefore I do not see the object of the proclamation of General Beynon at all. It might have said that officers can do what they think best ?

A. You would not say that a General's operation orders were absolutely no use simply because local commanding officers had to use discretion in emergencies and under certain conditions. I took the soldier's point of view.

Q. And you did not regard it as being inconsistent with the General's proclamation ?

A. I think it is quite consistent.

Q. Did it not strike you that it looked like a miniature edition of General Dyer's order of crawling at Amritsar ?

A. No.

Q. Supposing anyone refused to obey that order, what punishment would you have given ?

A I do not know. It never happened.

Q. Supposing it had arisen, how would you have enforced it ?—A. I really do not know, I had no idea.

Q. You would have ordered some punishment ?

A. I do not think I would have ordered some punishment. I should have got somebody to assist him to do that.

Q. You have spoken in paragraph 19 about straight speaking. What do you mean by straight speaking ? Can you give us a couple of that ?

A. It was a speech explaining to the people that they made fools of themselves, that they were misled and got themselves into trouble and those responsible got off scot free.

Q. On reading some of the paragraphs of your report one is led to believe that the administration of martial law in Kasur was such as to make Kasur a land of peace and plenty, overflowing with milk and honey and that ever since its withdrawal the place has been turned into a land of tears and sorrow ?

A. As people got to understand the real object of Martial Law they were really happy.

Q. You thought they would be happy if it continued for a long time?

A. My opinion is that the form of summary court for some offences would be welcome.

Continuing witness said that he was intimate with the people and they used to cheerfully help and did not do it in the same spirit in which they did to a despot.

Q. Would you think it very ungrateful of the Kasur people not to have petitioned the Government to restore to them the blessings of Martial Law: A. No I do not think so.

Q. When you arrived at Kasur on the 23rd April was it in a state of turmoil?

A. There was no open disturbance but the attitude of the people was ugly.

Q. In what manner was it shown?

A. It is a thing which one can feel better than define. It is in the atmosphere.

Questioned in regard to the story of women of loose character having been compelled to witness the flogging sentences the witness said it was a misrepresnetation although not a deliberate one. On one occasion, explained the witness, he had to deal with some men of loose character. They were sentenced to be whipped. He ordered the Sub-Inspector of Police to get hold of all the bad characters of the town to witness the whipping which was to take place in the evening. The last thing he desired was the presence of those women. On the afternoon of that day he went into the city and got back three-quarters of an hour later. When he arrived at the station he was horrified to see those women collected. He did not want them and remonstrated with the Sub-Inspector who told him that the witness had ordered him to get hold of all the bad characters. Those women could not be removed because he could not provide an escort to take them back to the city. There was no other alternative and the whipping had to be carried out. It was not at all his intention that those women should be made to witness it.

Reprisals Against Property

When he asked Mr. Ghulam Mohiuddin to address the meeting at which he spoke, his idea was not to put him in a tight corner but he merely wanted to give that individual a chance of clearing himself. Six houses were visited in connection with his order requiring absentees to return to Kasur forthwith. When he found that some people who belonged to these houses had not come back, as a reprisal some earthenware articles were destroyed, clothes burnt and charpoys taken away.

Sardar Amar Singh

Sardar Amar Singh, a Kasur Pleader, described himself as a voluntary witness, but he told the Committee that he had been asked by Mr. Marsden, the Sub-Divisional Officer, to give evidence and that he did not expect to be cross-examined. He told Mr. Marsden that if there was going to be any cross-examination he might have to speak the truth. (Laughter.) He was afraid to give evidence because he might have to say things unpalatable to officials. He got persuaded because Mr. Marsden was the Sub-Divisional Officer and he had to appear before him every day.

The witness asked Sir Chimanlal Setalvad, who pressed him with questions on recruiting whether he could assure him that he would not get into trouble. (Laughter).

The witness explained that the trouble was that the Committee would be given away soon and he would have to remain in the midst of officials. (Laughter.)

Pressed further the witness said that he was unwilling to make any statement except on an assurance that he would not get into trouble. Sir Chimanlal Setalvad wanted to know if what he had to say would be from personal knowledge. Witness replied in the affirmative.

Sir Chimanlal Setalvad pointed out that he had already said enough to invite trouble, if that was his fear.

The witness, in reply, said that Sir Chimanlal's cross-examination had taken things forcibly out of his month. (Laughtert.)

Persuaded by Sir Chimanlal to be frank, the witness said some undesirable methods were employed in connection with recruiting.

Questioned as to who employed undesirable methods, the witness said the Sub-Inspector of Police was asked to send up young Jats under Sections 107 and 110 of the Penal Code to furnish security for good behaviour, and the people so brought up were then given the alternative of joining the army. This was after the visit the Lieut.-Governor to Kasur. He could not say who asked the Sub-Inspector to do so. He saw the officials assembling and discussing things. It was after this that the number of people brought up increased. Some were brought handcuffed. People were harassed in that manner. Then again the magistrates who could imprison men only up to six months threatened men with more severe punishment and then give them the alternative of joining the army. This sort of thing went on almost before every magistrate.

Sir Chimanlal then questioned the witness in regard to the war loan campaign. The Witness said under pressure was used.

Questioned by Sahibzada Sultan Ahmad you said that you were afraid of giving evidence because you might be compelled to tell the

truth under cross-examination. Do you mean to imply by this that if you are not cross-examined you would not be telling the truth?—the witness said : No, sir ; because in my statement I have to speak the truth.

Why should you be afraid of telling the truth in any case?—you have not got the experience of our province. Here we cannot displease our officers.

Because you are afraid that trouble would come to you ; that is why you do not want to displease the officials?—If the thing is unpalatable it will.

May I take it that this is because there is some sort of fear at the back of your mind that the officials will use their power in an irresponsible maner towards you? Is that the idea?—Yes ; because I have got experience also. Once a meeting was held here [at Lahore] to request the Government of India to postpone the passing of the Rowlatt Bill. I was a chance visitor there and Mr. Duni Chand and other friends asked me to second a resolution requesting the Viceroy to postpone the passing of the Bill. That was my maiden political speech. When I saw Mr. Fyson afterwards he expressed displeasure at my speaking at the meeting.

Because a certain thing is unpleasant to officials why should it be a reason for you to desist from telling the truth? Are you afraid they would use their powers improperly against you?—They might. The thing is very plain. It is a common psychology of mine. If you Lordship is displeased with me, if you like you can use your authority in that way. You are a man of authority but I am a subordinate.

According to you officers are dreaded?—Some are. I do not mean to say that all officers are like that.

The witness was then examined by Mr. Rice, who asked :—You told us that people in Kasur had first abstained from a HARTAL because you knew that the officials disapproved of it?—Yes.

When you look back now on the riot, murders and incendiarism which the Kasur mob committed on the 12th April do you now think that perhaps the officials were right in deprecating a *hartal*?-These murders were accidental and unfortunate. They were not deliberate. If the officials thought such things might happen, of course they would be justified.

Colonel O'Brien

The Committee opened their inquiry into the Gujranwalla disturbances with the examination of Col. O'Brien, the then Deputy Commissioner of the district. Questioned by Lord Hunter, Col. O'Brien

said he left Gujranwalla on the 12th April on transfer to Ambala, but was sent back to Gujranwalla by motor on the 14. He had been at Gujranwalla previously for two years.

Q.—In your statement here, you give a survey of the predisposing causes of the riots. What do you think was the principal cause that unsettled the people in that way?

A.—I don't know. I think it was organised from outside.

Q.—Was there a certain amount of unrest in Gujranwalla caused by economic conditions?

A.—Not at all. Gujranwalla was very rich and people were growing in prosperity. It has two big canals, of which the Upper Chenab was only beginning to take its full effect.

Q.— So far as recruiting was concerned, was there any unrest?

A.—I can't think so. Recruiting was almost confined to the agricultural classes and the townspeople did nothing. It was they who joined the riots.

Q.—Were people in Gujranwalla affected by the previous outbreak in Delhi and Amritsar?

A.—Yes, I understand that the excitement on the 14th April was entirely due to a meeting of the leaders in which it was decided to repeat the incidents of Lahore and Amritsar in order to discredit the Government. That is in the approver's statement.

Don't you think it very unlikely?—The whole rebellion is so surprising that I don't see how we can form any opinion.

So you call it a rebellion?—It has been held judicially to be a rebellion. I can't say more than that.

I am not concerned with judicial findings. I want to know from you as an experienced district officer of long standing whether there could be a rebellion which presupposes the existence of an organised movement on a fairly big scale and the object of which is no less than to overthrow the British Government and yet that you would be entirely and absolutely ignorant of the existence of such a movement?—It might be so.

Am I to suppose that the officials take no interest in what is going on and are absolutely ignorant of it?—I would not say that.

One of Two Things.

It must be one of two things, either that the officials were absolutely ignorant of what was going on or the thing did not really exist. My views is that the officials were wide awake and would have known of it if it existed.—I am not prepared to give an opinion on the point.

Further questioned as to whether the causes of the disturbances did not lie on the surface in such things as the *hartal* instituted

by Mr. Gandhi, and whether the example of Amritsar and the arrest of Mr. Gandhi did not cause disturbances in Gujranwalla and other places, Colonel O'Brien said he did not know why these events should have caused disturbances in Kundian and Malakwal when they did not cause disturbances in bigger places which were not railway stations.

Sahibzada Sultan Ahmed :—If the organisers of the movement wanted to have a rebellion in the Panjab or any other part of India, would they not try to get the more virile portion of the population, villagers and cultivators throughout the province, in order to effect their object? Witness :—Perhaps so, if they could. I don't want to give any advice on the subject.

I am putting it to you as a matter of ordinary common-sense that any organisation starting with a rebellion in view would attempt to have the warlike population of the Panjab, that is, the villagers, on their side to carry out their object. It seems to me a very obvious thing.—Yes ; if it was organised. I don't think it was very well organised.

Sahibzada Sultan Ahmed then returned to the question whether there was a rebellion or not, and Colonel O'Brien said the judicial decision was that there was a rebellion and he considered that sufficient. Asked for his grounds, apart from the judicial decision, for saying that there was a rebellion, the witness said that he did not think he could express them.

Sahibzada Sultan Ahmed :—Is that because you have not got them, or because you don't wish to do it?—I don't say I don't wish to do it. I say it is very difficult to do so. It is difficult to find reasons of that kind.

But I should have thought when you expressed that opinion you would have had reasons already in your mind. You don't form an opinion and reason afterwards, do you?—The main reason for my opinion is the judicial decision.

And something beyond that which you do not wish to express or find it difficult to express?—Yes.

May I take it that probably you haven't anything beyond the judicial decision to go upon?—No very much.

"Not to Reason Why."

Col. O'Brien was next questioned regarding a passage in his report referring to the disturbances in Delhi and was asked what course he thought ought to have been taken in Delhi. In reply the witness said that he did not suggest anything. It was not for a mere Deputy Commissioner, he added, to criticise another Government.

Sahibzada Sultan Ahmed :—But you have critised other Governments.

Col. O'Brien :—As I said before, I was not prepared to be cross-examined. This was my opinion given to the Panjab Government, but I am not prepared to state what should have been done in Delhi and Bombay and other places.

Mr. Sultan Ahmed :—I take it that you gave your opinion to the Panjab Government without deliberating on what you were saying.

Col. O'Brien :—I don't say that.

Lord Hunter :—Surely what the witness has said is that if the authorities in Delhi had taken certain steps things might have been different. He does not suggest any steps. And he is not prepared now to suggest any. That surely is a position which may quite reasonably be taken up.

Col. O'Brien :—I meant to say that I took certain action in Gujranwalla and other people took different action elsewhere, and it is not for me to say which is right or which is wrong or what should have been done. That is another thing.

Continuing, Mr. Sultan Ahmed asked the witness why he referred to the *hartal* of April 6th as a possible danger.

Col. O'Brien said in his opinion there would have been no trouble at all if the organisers had not stimulated it.

Mr. Sultan Ahmed :—Then the people were in their hands entirely ?—I do not think the people would have broken out without some stimulus.

But do you say that there was a danger in the *hartal* of April 6th ?—Well, take in this way. It was surprising that the organisers of the *hartal* were able to force *hartal*. I was assured on the 5th April by the better people of the town that there would be no *hartal*. The danger was that the people who were thus able to organise the hartal would be able to organise worse things later. That is my suggestion.

How do you explain that most of the people arrested were legal practitioners ?—Simply because the legal practitioners were mostly concerned.

What are the relations between the practitioners and the officials of the Panjab ?—So far as I have been concerned, they have been generally all right. A number of the members of the Bar were not concerned in the least in this affair.

You have used the term "rebels". Whom do you mean by "rebels" ?—The people who were convicted as such. No doubt there were others who escaped notice.

Pressed further on the point, Col. O'Brien said that he had information which was put before the Tribunals, but he could not

remember it all now. He had a lot of work to do at the time and his memory was distinctly vague about it. He did not notice any very definite excitement caused in the Gujranwalla District by the passing of the Rowlatt Act.

Asked why he thought that bitterness already existed in the the hearts of some of the people before the disturbances, Col. O'Brien replied that he had simply said that there must have been bitterness or they would not have done so much damage.

Why was there bitterness at all?—I don't know.

You can't give any reason for it?—It came as a great surprise and a shock to me.

In reply to Pandit Jagat Narayan, witness said that the rebellion could in a way be considered ridiculous. Had he known that the situation was serious, he would not have left Gujranwalla on the 12th April. On his return to Gujranwalla on the 14th idem at the outskirts of the town, where his motor-car broke down, he proceeded to the Treasury without being molested but there was nobody on the route excepting ordinary passers by. The 23 arrests he made in the town were under Section 12 of the Defence of India Act. The arrests were made primarily as a protective measure, but the probability was that they would be charged. He had, however, previous knowledge about the arrested men. He had made various inquiries and had sufficient material to act upon. He had information that some of them were inciting the mob. He could not say who gave him the information and there was no time to record their statements.

Pandit Jagat Narayan asked witness if he meant Bhagat, the approver. Witness said he was one but there was another, Abdul Rahiman. The witness was next questioned at length in regard to the approver's statement, and said in reply that some of his conclusions were based on the approver's statement but not all. Continuing, the colonel said that what he meant when he stated that they wanted to repeat the Amritsar incidents was not that Europeans should be murdered. The Commission could come to its own conclusion. No European was assaulted up to 2 p.m. on the 14th of April because there was a strong police-guard. Abbas Ali was not a witness in the conspiracy case. He was doing his duty as a Public Prosecutor at the time. At Sheikhupura Abbas Ali was appointed Public Prosecutor by Mr. Bosworth Smith in the martial law cases. Witness did not know if subsequently Abbas Ali was summoned as defence witness. In regard to the arrests a long list was produced before him by the Police on the 15th April from which he selected certain names. He did not think any statement

was recorded by the police about the warning given by the Indian Christians to the American Missionaries.

Witness went to Wazirabad on the 16th April and to Sheikhupura on the 19th and arrested certain persons. In none of these cases were warrants issued and he arrested them under the Defence of India Act sending them direct to Lahore. He was not against Arya Samajists and pleaders as a class. His information was that the persons arrested were concerned in the riots. At Sheikhupura, arrests were made on the request of the Senior Indian Magistrate. At Wazirabad he examined a large number of people and arrests were made because he had sufficient grounds. Pressed as to what was his opinion as to the Arya Samajists as a class, witness said that he did not wish to answer the question. He admitted that there was intensive recruiting campaign in the district from November 1917 onwards. After referring to the meeting of April 6th and the speeches made thereat, witness, said that he had no information regarding the calf-killing incident. He could not say what was the object of hanging the killed calf on the bridge. He really had no opinion to give on the point but he thought that it might have been a pre-arranged affair intended obviously to excite the mob against the police. Questioned about the anti-Government papers he had referred to, witness said that a vernacular paper *Nakash* and its successors were proscribed on his recommendation. He did not recommend the exclusion of any English paper.

The Case of Bugga.

Concerning Purushottam Bugga's arrest at Wazirabad, witness said that he ordered the confiscation of the property of Bugga's son when he found that Bugga had absconded. The object of this order was that Bugga should turn up. Bugga eventually surrendered himself. Witness did not give any special order but only told his men to go and take possession of all Jamiatram's (Bugga's son's) property. Of course it meant the turning out of the inmates of the house. He did not know if a buffalo was locked up with the property and consequently died. (Laughter.)

Col. O'Brien, further examined by Pandit Jagat Narayan, admitted that Bugga was found guilty under the Indian Penal Code, Martial Law Orders, and the Defence of India Act. Witness denied any person had been shot for breach of the Curfew Order. In the case of one man who was found dead, there were no marks of injuries. He went out at night and died of fits. There were no cases of persons in the surrounding villages being shot for the breach of the Curfew order. Regarding the burning of the King-Emperor's effigy at Ramnagar, it was true that in the first police report there was no mention about it. He tried this case from

morning till evening. One day he thought he worked from 6 a.m. till 6 p.m. He could not say how many defence witnesses were examined, whether they were more than a hundred or less, nor could he remember the number of prosecution witnesses. Everyone of the accused in this case was sentenced to a full term of imprisonment, though the fines varied. One police sergeant gave evidence in that case that he had never heard of such a thing as the burning of the effigy. The sergeant was subsequently punished for trying to hush up matters. In connection with this case, he did not remember that it was alleged that he sat from 9 to 10 a.m. and finished off the trial by 5 p.m. He had devoted sufficient time to the trial. He heard on the 8th June that Martial Law was going to be withdrawn the next day, and he worked hard to finish off all cases fixed for the 9th. The residue were let off afterwards.

Cause of the Outbreak.

Questioned by Sahibzada Sultan Ahmad, Col. O'Brien said he had served in the Panjab since 1896 and was well acquainted with the conditions of the province, especially on the Western side. The people on the whole were distinctly loyal.

Asked to what he attributed the sudden outburst, the witness said he could give no opinion. He could not understand it. He had committed himself to the opinion that there was an organisation somewhere, because certain manifestations of the outbreak looked as though it was premeditated. The witness reiterated that he could not say if the organisation was in the Panjab or outside.

Q. May I take it that if there was anything of that sort especially in the western districts of the Panjab it would come to your notice as an officer of the Government?

A. I don't think it would, or we would not have been so taken by surprise. It came as a great shock to us all.

Q. As the District Officer would you not know of it? A. No: I don't think so.

Q. Is it not to the District Officer that the Government looks for information about what is going on in the district? A. I say, many district officers were taken by surprise.

Q. Is not the explanation simple, that nothing existed for you to know and therefore you did not know it?—It is possible, but I do not think it is likely. I say it could have existed without our knowing.

Q. But is it likely that officials from top to bottom would be absolutely ignorant of a movement of no less a character than to overthrow the British Government, that a movement of that magnitude could exist and yet that everybody, the police, the

C. I. D., and the District Officers should be absolutely ignorant of its existence?—I really can't speak on the subject.

Mr. Bosworth Smith's Evidence

Mr. Bosworth Smith, Joint Deputy Commissioner of Sheikhupura, one of the divisions of the Gujranwalla district, next gave evidence.

In reply to Lord Hunter, witness said that he had submitted a statement giving in the order of their occurrence various happenings in the district. Witness then briefly described the occurrences at Sangla village, attempts to wreck the railway lines, the looting and burning of Daban Singh railway station at which a large crowd was present, and the cutting of communications at Sangla. At Chuharkana, the trouble started on the 11th. On the 12th, a big *Hartal* was organised and later on the railway bridge was blown up by a crowd of about two thousand people and the railway station itself was looted and burned. The mob tried to get the soldiers to join in the looting, and he had heard that some people rather fraternised and talked with them. The railway station itself was looted and anything that could be carried away was taken. The telegraph wires were cut at numerous points. At Sheikhupura, seven miles from Chuharkana, on the 14th, a mob gradually collected and proceeded to the station with a view to assaulting Europeans in the passing trams. Later on, the same night the telegraph wires were cut and the station burned. When investigations into the disturbances began after the proclamation of martial law, identification parades were held. When a man was identified by only one person he was not arrested and such of those who were identified by more than one person were arrested and kept in police custody. Sitting as a judge of summary courts, he tried 477 accused persons and convicted 294 between May 6th and 20th.

Continuing, witness said that generally speaking there was no trouble at all after martial law had been introduced. He based his opinion regarding the anti-European and anti-Christian feeling on the frequent statements he had received. Martial law might have been taken off a little sooner in his district, but as a matter of fact they had very few martial law orders in force.

In reply to Mr. Justice Rankin, witness said that the cases he tried as a summary judge were only for such offences as were named in the martial law proclamation of the 19th April.

In reply to Sir Chimanlal Setalvad, witness said that he had been in the Punjab for the last 21 years. For a short time he was in the Bombay Presidency. When the disturbances broke out, he was at Amballa, and on telegraphic instructions from the Punjab Govern-

ment he proceeded to Sheikhupura and took charge there. Witness expressed the opinon that the hartal should be deemed illegal. That was the opinion he had formed after he went to Sheikhupura. The general shutting of shops was undesirable, if illegal was too stronga word. Witness then admitted his statement that there were no places where disloyalty was so deep as in Delhi, Lahore and Amritsar. Asked if he had any personal experience of these places, witness said he had spent a certain period in Delhi but not in his official capacity.

Asked on what material he based his statement, witness said that was his own opinion which he had expressed in a confidential report to Government. Pressed further, he said he did not wish to give his reasons because he did not think it desirable. Asked whether his refusal to give reasons was because he considered such a course to be against the public interests or it was due to the order of Government, witness reiterated that it was not desirable to give them. Asked why it was not desirable to give them, witness said that he did not want to say why he decided not to give the reasons he had for forming his opinion about Delhi being a disloyal place. The same thing applied to Labore and Amritsar. Questioned with regard to his statement that had there been no pleaders at Sheikhupura there would have been no trouble at these places, the witness disclaimed any intention to make any general statement against pleaders. He did not mean to suggest that martial law should have been permanent and that if there were no lawyers it would be much better. The police delayed making arrests because they were paralysed before the identification parades. No census of the villages were taken. There were identification parades at seven or eight villages. At only one place were the whole male population turned out. Counsel were allowed to appear in cases which he tried, and it was not correct to say that he did not allow them to cross examine and confined them to suggesting questions only. He merely asked them what questions they liked to put. As a matter of fact he could not remember if a counsel named Mr. Norton had declined to appear before him because he disallowed his first question itself. A lambardar named Attar Singh was arrested as a hostage for his sons. He did not think that the man was put on a horseback and taken to Lahore. Gohar Singh was arrested as a hostage for his sons but was released the next day when his sons surrendered. He did not know if Gohar Singh was again arrested and was released only when martial law was removed. He did not know whether any charges were framed against him. His pension was stopped as a result of the recommendation he made owing to all his three sons being implicated in the disturbances.

In reply to further questions the witness said he did complete justice to the accused persons. Continuing, Mr, Bosworth Smith said that he arrested 77 persons at Sangla. Asked if he had any evidence that all these men were concerned in the disturbance, the witness said that he had a lot of general evidence about him, but there were no recorded statements. A lot of persons had told him in general terms, and as far as he remembered the arrested persons were pointed out to him. Subsequently on the 14th May he arrested 57 person more. Out of this 100 odd arrested men only eight were charged, out of whom seven were convicted and one acquitted. A suggestion was made by him that Rs. 50,000 should be recovered from Sangla. When the respectable people of the places agreed he released most of the persons. He did not know to what figure the Government had subsequently reduced his original suggestion. Questioned in regard to the saluting order, the witness said that he could not say if the boys were to repeat at the parade "we won't commit anything,' etc. He had suggested the erection of a house of repentance at Sangla. His idea was that good might come out of evil, and that it would be a sort of "lest we forget." It was not true that he had suggested that half of the estimated cost of ten thousand rupees should be borne by the pleaders. His idea was that people should go inside this house and repent. The plan had never been laid before Government. So far as the pleaders were concerned he had submitted a confidential report to the High Court recommending disciplinary action in the case of some of them.

Asked if he had held more than a dozen durbars, the witness said that on more than a dozen occasions he had collected people and talked to them. Very likely he alluded to their conduct. He had not told the people at these meetings never to trust pleaders.

Pandit Jagat Narayan asked the witness how, supposing the party was fewer than one hundred, he would account for the fact that the number of people arrested exceeded that number. Witness pointed out that large crowds were parading the streets. No sum was collected at Sangla under his orders for comforts for the troops, nor were respected people ordered to pull the punkahs. It was very likely that 185 people were arrested in Chuharkana. One Mastan Singh, the station-master or assistant station master of the place, was arrested and afterwards released. He then appeared as a Crown witness. Asked if it was a fact that the identification by the station staff was carried out after the release of this man, the witness said he did not know. He was able to arrest a large number of people without military help, but the military were on the scene.

Mahatma Gandhi's Evidence

In his written statement to the Hunter Committee Mr. Gandhi states:—For the past thirty years I have been preaching and practising Satyagraha. The principle of Satyagraha as I know it to-day constitutes a gradual evolution. Satyagraha differs from passive resistance as the north from the south. The latter has been conceived as a weapon of the weak and does not exclude the use of physical force and violence for the purpose of gaining one's end, whereas the former has been conceived as a weapon of the strongest and exclude the use of violence in any shape or form. The term Satyagraha was coined by me in South Africa to express the force that Indians there used for full eight years, and it was coined in order to distinguish the movement then going on in the United Kingdom and South Africa under the name of passive resistance. Its root meaning is holding on to truth, hence I have also called it love-force or soul-force. The application of Satyagraha discovered in the earliest stage that pursuit of truth did not admit of violence being imported. One's opponent must be won over from error by patience and sympathy for that which appears to be truth to one may appear to be error to the other, and patience means self-suffering. So the doctrine came to mean the vindication of truth by the infliction of suffering not on the opponent but on one's self. On the political field the struggle on behalf of the people mostly consists in opposing error in the shape of unjust laws. When you have failed to bring the error home to the law given by way of petitions and the like the only remedy open to you if you do not wish to submit to an error is to compel him by physical force to yield to you or by suffering in your own person by inviting penalty for the breach of law. Hence Satyagraha largely appears to the public as civil disobedience or civil resistance. It is civil in the sense that it is not criminal. A criminal law-breaker breaks law surreptitiously and tries to avoid penalty but not so the civil resister. He even obeys the laws of the state to which he belongs not out of fear, but because he considers them to be good for the welfare of the society. But there come occasions, generally rare, when he considers certain laws to be so unjust as to render obedience dishonour. He then openly and civilly breaks them and quietly suffers the penalty for their breach and thus registers his protest against the action of the law givers. It is open to him to withdraw his co-operation from the State by disobeying such other laws whose breach does not involve moral turpitude. In

my opinion the beauty and efficiency of Satyagraha are so great and the doctrine so simple that it can be preached even to children. It was preached by me to thousands of men, women and children, commonly called the identured Indians, with excellent results. When the Rowlatt Bill was published I felt that they were so restrictive of human liberty that they must be resisted to the utmost. I observed too that opposition to them was universal among Indians. I submit that no state, however despotic, has a right to enact laws which are repugnant to the whole body of the people, much less a Government guided by constitutional cargo and precedent such as the Indian Government. I felt that the economic agitation needs a definite direction if it was neither to collapse nor to run into violent channels. I ventured therefore to present Satyagraha to the country emphasising its civil resistance aspect, and as it is purely an inward and purifying tonic I suggested observance of fast, prayer and suspension of all work for one day the—6th of April. There was a magnificent response throughout the length and breadth of India even in little villages. Although there was no organisation and no great previous preparation the idea was given to the public as soon as it was conceived. On the 6th April there was no violence used by the people and no collison with the police worth naming. Hartal was purely voluntary and spontaneous. I attach hereto a letter in which the idea was announced. The observance of 6th April was to be followed by the civil disobedience. For this purpose the committee of the Satyagraha Sabha had selected certain laws for disobedience and we commended the distribution of prohibited literature of a perfectly healthy type e. g., the pamphlet written by me on "Home Rule" the translation of Ruskin's "Unto the Last," "on defence and death of Socrates." But there is no doubt the 6th April found India vitalised as never before. The people who were fear-stricken ceased to fear authority. Moreover, hitherto the masses had lain inert. Leaders had not really acted upon them. They were undisciplined. They had found a new force but they did not know what it was and how to use it. At Delhi leaders found it difficult to restrain the very large number of people who had remained unmoved before. At Amritsar Dr. Satyapal was anxious that I should go there and show to the people the peaceful nature of Satyagraha. Swami Shraddhananji from Delhi and Dr. Satyapal from Amritsar wrote to me asking me to go to their respective places for pacifying the people and for explaining to them the nature of Satyagraha. I never have been to Amritsar and for that matter to the Punjab before. These two messages were seen by the authorities and they knew that I was invited to both the places for peaceful purposes. I left Bombay for Delhi and the Punjab on the 8th April and had telegraphed to

Dr. Satyapal whom I had never met before to meet me at Delhi. But after passing Muttra, I was served with an order prohibiting me from entering the province of Delhi. I felt I was bound to disregard this order, and I proceeded on my journey. At Palwal I was served with an order prohibiting me from entering the Punjab and confining me to the Bombay Presidency, and I was arrested by a party of Police and taken off the train at that station. The Superintendent of Police who arrested me acted with every courtesy. I was taken to Muttra by the first available train and then by a goods train early in the morning to Siwai Madhupur where I joined the Bombay Mail from Peshawar and was taken charge of by Superintendent Bowring. I was discharged at Bombay on the 10th April, but the people of Ahmedabad and Viramgam and in Gujrat generally had heard of my arrest. They became furious. Shops were closed. Crowds gathered and murder, arson and pillage, wire cutting and attempt at derailment followed. I had worked in the midst of Kaira ryots just before and had mixed among thousands of men and women. I had worked at the instance of and with Miss Anusuya Sarabhai among the mill hands of Ahmedabad. The mill hands appreciated her philanthropic work and adored her.

The fury of the labourers in Ahmedabad reached a white heat when a false rumour was started that she too was arrested. Both of us had visited and interceded for the mill hands of Viramgam when they were in trouble, and it is my firm belief that excesses were committed owing to the great resentment of the mob over my arrest and the rumoured arrest of Miss Ansuya Sarabhai, I have mixed with the masses in practically the whole of India, and talked to them freely. I do not believe there was any revolutionary movement behind the excesses. They could hardly be dignified by the term rebellion. In my opinion the Government erred in prosecuting the offenders for waging war. This hasty view has caused unmerited or disproportionate suffering. The fine imposed on poor Ahmedabad was heavy, and the manner of collecting it from the labourers was unnecessarily harsh and irritating. I doubt the justice of inflicting on the labourers a fine so large as one hundred seventy six thousand rupees, imposition of additional police on Nadiad and Barehdi, and the collection of the cost from the farmers of Barejdi and from Banias and Patidars of Nadiad was totally unjustified and even vindicative. I think the introduction of Martial Law in Ahmedabad was also unjustified and its thoughtless administration resulted in the loss of several innocent lives. At the same time and subject to the reservations mentioned by me, I have no doubt in Bombay Presidency the authorities acted with considerable restraint at a time when the atmosphere was surcharged with mutual suspicion

and an attempt at wrecking a train which was bringing to troops restore order had natural by angered the authorities

Questioned by Lord Hunter Mr. Gandhi declared that the Satyagraha movement, of which he was the author was intended to replace physical force and was based entirely upon truth. He adopted it in connection with the opposition to the Rowlatt Act in order to secure its repeal. Consistent with the successful carrying out of the movement his intention was to enlist as many people as possible. It was not a movement essentially antagonistic to Government. That was not the spirit in which it was conceived and wherever he had led it that was not the spirit in which it was understood by the people. If he was in charge of Government and found himself with such a body of men as Satyagrahis he would welcome and keep them on his side. He intended to make it a mass movement that was why in order to put restraint the Committee was forced to select the laws for disobedience instead of selection being left to individual freedom. It was not a dangerous campaign. The object of Government to prevent anarchical crime was laudable but the method adopted was not the correct one and the Rowlatt Act was not the remedy. He tried to go down before Lord Chelmsford and other high Government officials with bended knee and failed to secure the repeal of the Act. Hartal was distinct from civil disobedience and was meant to strike the imagination of the masses. He would be guilty of asking the people while on hartal to engage themselves in violence. Acts of mobs, whether at Ahmedabad or Viramgaum was totally unjustified. The mob lost control, but he did not wish to offer any defence for their acts. At the same time Government should have done better. They committed a serious error of judgment. As soon as he got back from after his arrest which was real and not supposed arrest as was often said, he did what he could in calming the atmosphere. When he said at the meeting he addressed at Ahmedabad on the 13th that the affair had been organised and there were educated people behind it about which so much had been made of, he meant the people who knew to read and write and not the educated people in the sense that they were university men. There was no question of a deep laid organisation throughout India. He knew there was an organisation behind Ahmedabad but he was not prepared to give names. The trouble in Ahmedabad was anti-Government but he could not say if it was anti-European. Coming to the question of the measures taken to quell the trouble, the authorities acted with restraint at Ahmedabad. The work of the Special Tribunals was done with justice. Levy on the poor people at Ahmedabad and the levy at Nadiad was unjustified.

In answer to Mr Justice Rankin, Mr. Gandhi said, he temporarily suspended civil disobedience on 18th April by yielding to better knowledge. Lord Chelmsford's desire in the matter was communicated to him through the Governor of Bombay together with the latter's own advice and he yielded. He felt guilty of having temporarily damaged the feeling of respect for law in the people but he did not think he created a spirit of lawlessness in the people as a whole.

Questioned by Sir Chimanlal Setalvad Mr. Gandhi declared that it was not necessary for all who follow Satyagraha to have some high moral and intellectual sense as the leaders.

He did not agree that it required extraordinary control of passions. It was difficult to say if the country had now sufficiently realised the high ideal of Satyagraha to enable him to try it again, but the country was now all the better and purer. As regards the statement that there was an organisation behind the trouble at Ahmedabad he had unimpeachable testimony of the deluded people who were told to go and do acts. There were not isolated instances but it was difficult to say if it was done on a large scale. The Viceroy had put it straight to him. "Do you want India to be converted into an armed camp? If you do not want, then we ask you to suspend Satyagraha.'

Asked by Pandit Jagat Narayan if he would adopt Satyagraha in connection with legislation in future years for which Indian ministers would be responsible and if legislation was obnoxious he would go and break law. Mr. Gandhi declared that the English ministers had the benefit of ignorance while the Indian ministers would not have that excuse. Such a situation, he did anticipate, would arise in India. Satyagraha was to be adopted only after all other methods have been exhausted. If he could possibly have turned on Lord Chelmsford he would have gone and said. "Lord Chelmsford, you go now. You have assented to the Rowlatt Act."

Replying to Sultan Ahmed, witness said he did not at all agree with the conclusion of Rowlatt Act. Facts as marshalled in the report did not justify the report they had written.

Asked if he admitted the right of the Government to put down anarchy by repressive measures, witness said the Rowlatt Act was certainly not a remedy. Satyagraha movement had spread in the Punjab which province is just as capable as any other province of India to adopt it.

Lord Hunter remarked :—Now the only matters we have got to deal with here are as regards Ahmedabad itself. We have been told you enjoy great popularity among the mill workers?

Mr. Gandhi: Yes.

Q. And that seems to have caused a great resentment on their part and led to a very unfortunate action in April in Ahmedabad and Viramgaum?

A. Yes.

Q. So far as those incidents are concerned you have no personal knowledge of them?

A. No.

Q. I don't know whether there is anything you can communicate to us in connection with these events to help us to from an opinion.

A. I venture to present this to you that I consider that the action of the mob whether at Ahmedabad or Viramgam was totally unjustified and I think it a very sad thing that they lost self control. I wish to offer no defence but at the time I would like to say that the people among whom rightly or wrongly I was popular were put to serve test by Government. They should have known better. I do not say that only the Government committed unpardonable error of judgment and that the men committed no error. On the contrary I hold it was more unpardonable on the part of the mob than on the part of Government.

Continuing Mr. Gandhi described the steps he had taken to condemn the acts of the mob and to restore calmness. It was at one of the meetings that he had addressed at Ahmedabad in this connection that he had to use the terms "organised" and "educated" both of which have been so much quoted against him, and against the people. The speech was in Gujrati. By the term "educated" he simply meant literate that is to say those who could read and write and not the people with University education. He had not spoken of a deep laid organisation being in existence, but that the thing was done in an organised manner both of which did not mean the same thing. He did not withdraw since any word of what he had said. He had no knowledge of the happenings elsewhere. There was the question of a deep laid organisation of which Ahmedabad was a part. The organisation was hastily constructed. It was not an organisation in the sense in which they understood the word. He had nothing to do with Mr. Guider's investigation and he thought if he could wean local people from error his position would be entirely justified. Crimes committed by the mob were the result of their being deluded by the wicked rumour of the arrest of miss Anusuya. There was a class of half educated people who possessed themselves with the false ideas from sources such as cinemas, from silly novels, and from some political leaders. He knew that school. He had mixed with them and endeavoured to wean them. He had so far succeeded in his endeavours that there

were to-day hundreds of people who had ceased to belong to the school of revolution.

In regard to Mr. Gandhi's statement of the existence of an organisation Lord Hunter asked :—Do you imply that there was a common purpose on the part of the rioters ?

Mr. Gandhi : I don't say that. It would be an exaggeration to say that. But I think common purpose was restricted to a very few.

Lord Hunter : According to the Satyagraha doctrine is it right that the people who have committed crime should be punished by the civil authorities ?

Mr. Gandhi :—I am not prepared to say that it is wrong, but there is a better method. It is really a difficult question to answer because you do not anticipate any pressure from outside. But I think on the whole it would be proper not to say that the Satyagraha cannot possibly quarrel with any punishment that might be meted out to an offender and therefore he cannot be anti-Government in that sense.

Lord Hunter :—But apparently it is against the doctrines of Satyagrahi to give any assistance to Government by way of placing information that he has that would lead to the conviction of offenders.

Mr. Gandhi ;—According to the principles of Satyagraha it is inconsistent for the simple reason that the Satyagrahi's business is not to assist the police in the method which is open to the police but he helps the authorities and the police to make the people more law abiding and more respectful to authority.

Lord Hunter :—Supposing a Satyagrahi has seen one of the more serious crimes committed in the riots in his own presence. Would there be no obligation on him to inform the police ?

Mr. Gandhi :—of course. I answered that question to Mr. Guider before, and I think I must answer it to your Lordship. I don't want to misguide the youth of the country but even then he cannot go against his own brother. When I say "brother" I do not of course make any distiction of the country or the nationality. A Satyagrahi is wholly independent of such distinction. I have known criminals of the deadliest type, I have been instrumental in weaning them from crimes. I should be forfeiting their confidence if I disclosed the name of a single man given to me in confidence.

THE

HUNTER REPORT

AND

RELATED PAPERS

The Hunter Report

By order of 14th October 1919, it was announced that the Governor General in Council had, with approval of the Secretary of State for India, decided to appoint a committee :—

To investigate the recent disturbances in Bombay, Delhi and the Punjab, their causes and the measures taken to cope with them.

The Committee, known officially as the Disorders Enquiry Committee, was composed as follows :—

(1) Lord Hunter, late Solicitor-General for Scotland,— *President.*

(2) The Hon'ble Mr. Justice G. C. Rankin, Judge of the High Court, Calcutta.

(3) The Hon'ble Mr. W. F. Rice, C.S.I., Additional Secretary to the Government of India, Home Department.

(4) Major-General Sir George Barrow, K.C.B., K.C.M.G., I.A., Commanding the Peshawar Division.

(5) The Hon'ble Pandit Jagat Narayan, B.A., Member of the Legislative Council of the Lieutenant-Governor of the United Provinces.

(6) The Hon'ble Mr. Thomas Smith, Member of the Legislative Council of the Lieutenant-Governor of the United Provinces.

(7) Sir Chimanlal Harilal Setalvad, Kt., Advocate of the High Court, Bombay.

(8) Sardar Sahibzada Sultan Ahmed Khan, Muntazim-ud-Doula, M.A., LL.M. (Cantab.), Bar.-at-Law, Member for Appeals, Gwalior State.

The committee held their first meeting at Delhi on 29th October when the procedure to be adopted by them was discused. It was resolved that persons or bodies desirous of offering evidence should be invited to lodge with the Secretary a statement in writing (to be signed by a barrister, advocate, pleader or *vakil*) of the facts which they desired to prove and an outline of the points or contentions which they were prepared to substantiate. The statements were to be accompanied by a list of any witnesses whom it was desired to have examined and a short synopsis of the evidence of each such witness. The committee were prepared to hear applications from the persons or bodies who lodged statements for leave to

attend the sittings by a barrister, advocate, pleader or *vakil*. Intimation as to the proposed procedure was duly made in the press.

The committee heard the evidence of witnesses on 8 days at Delhi, on 29 days at Lahore, on 6 days at Ahmedabad and of 3 days at Bombay. All the witnesses, with the exception of Sir Michael O'Dwyer, General Hudson, Mr. Thompson and Sir Umar Hayat Khan, who gave their evidence *in camera*, were examined in public.

At Delhi the All-India Congress committee appeared by counsel, cross-examined witnesses put forward by the authorities, and called witnesses of their own. At Ahmedabad there was a similar appearance on behalf of the Gujrat *Sabha*.

In connection with the inquiry at Lahore on 12th November 1919, a communication was received by the President from the President of the All-India Congress Committee that a resolution had been come to by that body that "in view of the situation created by the refusal of the Government to accede to the request for the temporary release on adequate security of the principal Punjab leaders at present undergoing imprisonment, the committee regrets that it finds it impossible to co-operate with the Disorders Inquiry Committee by appearing before it and tendering evidence on behalf of the people." It was suggested in the letter that it was still possible to remove the impasse if the Committee could see its way to recommend the release, for the period of the inquiry, of the principal leaders under such security as might appear adequate to the Government.

The suggestion made in this letter was considered by the Hunter Committee, who were unanimously of opinion that it was not within their province to review the discretion of the local Government as regards the release of prisoners. A reply to this effect was sent by the Secretary to the above communication. In this letter there is the following passage :—"If in the course of their inquiry, it should appear that the evidence of any persons now in custody is necessary to throw light on the causes of the disturbances or the measures taken to deal therewith such persons will be called before the Committee, and, in this event, the committee do not doubt that the Government of the Punjab will place no obstacles in the way of their appearance. The committee observe indeed from the communication of the Private Secretary to the Lieutenant-Governor, of which a copy is annexed to your letter, that an assurance has been conveyed to you on this point and also an undertaking that proper facilities will be allowed for consultation between persons in custody and counsel engaged in the enquiry which has been entrusted to the committee and Lord Hunter's committee would expect that in this matter Government would afford the fullest reasonable facilities.

Lord Hunter has independently suggested to the Punjab Government that this should be done. Beyond this Lord Hunter's Committee feel that they cannot properly make any further suggestions." As a matter of fact, however, no concession was given to the Congress Committee for placing before the Hunter Committee any evidence relevant or material to the enquiry and as a result the Congress Committee declined to give evidence.

The All-India Congress Committee did not appear before the Hunter Committee at any of the sittings in Lahore.

On 30th December Pandit Malaviya wired to Lord Hunter in the following terms:—"As principal leaders have been released in pursuance of Royal Proclamation my committee is now in a position to lead non-official evidence relating to Punjab before Disorders Inquiry Committee, in the event acceptance of my committee's suggestion it is assumed that official witnesses will be recalled for cross-examination when necessary. Wire reply." Similar communications were sent from some of the imprisoned leaders who had been released. It appeared to Lord Hunter however, that the request to re-open the inquiry was in the circumstances quite unreasonable and the Secretary at his request, sent a reply in the following terms:—"In view of the fact that the Committee has sat at Lahore for over six weeks and has now completed the hearing of evidence there, that full opportunity was given for the presentation of non-official evidence and that it was open to your committee to cross-examine witnesses during that period. Lord Hunter regrets that he is unable to accept the suggestion of your committee."

The result was that bereft of any hope of any but official witnesses under official patronage being presented to the Committee, the Indian leaders headed by Pundits Malaviya and Motilal Nehru, Mahatma Gandhi, C. R. Das and others went on with a non official enquiry into the happenings of the Punjab. Their report is a bulky one and categorically condemn the Government of Sir Michael and unearths many mysterious and harrowing details of his administration. This Report with all the evidence collected was forwarded to the Sec. of State and the Govt. of India and other high quarters but seems to have been utterly ignored.

In March 1920 the Hunter Report was submitted to the Govt. of India in the form of a Majority and Minority Report. The Majority report is signed by the President, Lord Hunter, and his European colleagues on the committee, Mr. Justice Rankin, General Barrow, and Messrs Rice and Smith. The Minority report is signed by the Indian members, Sir C. H. Setalvad, Pandit Jagat Narayan, and Sahibzada Sultan Ahmad. As might be expected the majority

report is an exquisite piece of white washing of the Punjab Tragedy except where the black deeds of murder and outrage were too deep to be hidden. The minority report is a categorical indictment of the Government of the Punjab under the mailed fist of Sir M. O'Dwyer, based on the evidence of official witnesses alone.

On May 3rd 1920 the Government of India sent the Hunter Reports together with its own Despatch to the Sec. of State for India. Naturally the Government of India acquiesced in the findings of the Majority report of the Hunter Committee, excepting the Hon'ble Mr. Shafi who agreed generally with the minority report. So the conclusions of both the Government of India and the Hunter Committee showed similar lines of cleavage. The despatch of the Government of India was a long recital of justifications for what they had done during that awful tragedy of the Punjab to "save India" from a more terrible catastrophe ! The language, sentiment, mentality of that despatch are the same that underlie the Rowlatt Bills and Debates in Council, and the famous Reforms despatches of 1919. Then came the Secretary of State's famous Despatch of the 26th May 1920.

Secretary of State's Despatch
On the Report of Hunter Committee
26th. May 1920

My Lord,—

His Majesty's Government have considered the report of Lord Hunter's committee upon the disturbances which occurred in the Punjab and other parts of India in the early part of last year. They have further been informed by me of the conclusions to which Your Excellency's Government had arrived in your own review of the report as expressed in your letter dated the 3rd May, the text of which you have telegraphed to me. The report and your letter naturally cover grounds which His Majesty's Government did not feel called upon fo survey in detail, but their consideration of the matter has led them to definite decisions upon certain of the more important questions arising out of the report and they have desired me to communicate in my reply to your letter their considered statement of those decisions. Paragraph number 2 to 8 of this despatch contain accordingly this statement.

1. General :—The report of Lord Hunter's Committee represents the results of a prolonged and patient investigation. The labour would be of little value if their very complete and careful findings are not put to a practical use. The conclusions recorded have been inspired in the main by the belief that the chief duty which lies upon His Majesty's Government and the Government of India in utilising the report is not primarily to apportion blame to individuals for what has been done amiss, or to visit penalties upon them, but rather to prevent the recurring in the future of occasion for blame or regret, should unfortunate circumstances ever produce again a situation such as that which occurred in India in the spring of 1919. The conduct of Brigadier-General Dyer at Amritsar on the 18th April and the main features of the occurence at Jallianwalla Bagh in Amritsar city on the afternoon of April 13th, 1919 are well known. They are set out at length in Lord Hunter's report and appear in minute detail in the evidence, both written and oral, given before the Committee by Brigadier-General Dyer himself, the full and authorised text of which is now available to the public. As to the acts there is no doubt and no dispute, and it is only necessary here to recapitulate them very briefly in their baldest form.

On the morning of the 13th April Brigadier-General Dyer, who had arrived at Amritsar on the night of the 11th, issued a proclamation forbidding inter alia processions to parade in or outside the city and stating that they would be treated as unlawful assembly and dispersed by force of arms if necessary. This proclamation was read out at various places in the city in the course of the progress through the streets of a column of troops led by Brigadier-General Dyer personally who left his quarters about 9A.M. for this purpose, and returned to them about 1-30 P. M. About an hour before his return to his quarters in Ram Bagh, Brigadier-General Dyer had heard that despite his proclamation it was intended to hold a large meeting at Jallianwalla Bagh at 4-30 that afternoon, and at 4 p.m. he received a message that a crowd of about 1,000 had already assembled there. Shortly after 4 p. m. Brigadier-General Dyer marched from Ram Bagh with picketing parties, as he had previously determined to picket the main gates of the city, and with a special party consisting of 50 Indian infantry armed with rifles, 40 Indian Infantry armed only with kurkis (type of sword) and two armoured cars, he proceeded straight to Jallianwalla Bagh, dropping his picket parties enroute, and on arrival marched his infantry through a narrow lane into the Bagh and deployed them immediately right and left of the entrance. The armoured cars he left outside as the lane was too narrow to admit them. Having deployed his troops Brigadier-General Dyer at once gave orders to open fire and continued to fire on the dense crowd facing him in the enclosure (which he estimated at above 5000 persons), for some 10 minutes, until his ammunition supply was at the point of exhaustion. 1650 rounds of 303 mark IX ammunition were fired. The fatal casualties as the result of this action are believed to be three hundred and nine. The number of wounded has not been exactly ascertained but is estimated by Lord Hunter's Committee at possibly three times the number of deaths. Immediately after giving orders to cease fire Brigadier-General Dyer marched his troops back to Ram Bagh. The reasons given by General Dyer for the severity and duration of his fire are stated as follows in his written statement furnished to the General Staff (16th Indian Division) and subsequently laid before Lord Hunter's Committee :—"I had considered the matter from every point of view. My duty and military instincts told me to fire. My conscience was also clear on that point. What faced me was what on the morrow would be the *Danda* fauje (this which may be translated as 'bludgeon army' was the name given to themselves by rioters in Lahore). I fired and continued to fire until the crowd dispersed and I considered this is the least amount of firing which would produce the necessary moral and widespread

effect it was my duty to produce, if I was to justify my action. If more troops had been at hand the casualties would have been greater in proportion. It was no longer a question of merely dispersing the crowd, but one of producing a sufficient moral effect from a military point of view not only on those who were present but more especially throughout the Punjab". There could be no question of undue severity. The principle which has consistently governed the policy of His Majesty's Government, in directing the methods to be employed when military action in support of the civil authority is required, may be broadly stated as using the minimum force necessary

GENERAL DYER.

2. His Majesty's Government are determined that this principle shall remain the primary factor of policy whenever circumstances unfortunately necessitate the suppression of civil disorder by military force within the British Empire. It must regretfully but without possibility of doubt be concluded that Brigadier-General Dyer's action at Jallianwalla Bagh was in complete violation of this principle. The task which confronted him was to disperse by force if necessary a large but apparently unarmed assembly which had gathered in defiance of his orders. It was possible that considering the strength of the military force at his disposal, the size of the crowd, and the general temper and attitude of the inhabitants of the city, he would have found it impossible to achieve the task effectively and completely without some firing and without causing some loss of life, but it is certain that he made no attempt to ascertain the minimum amount of force which he was compelled to employ, that the force which he actually employed was greatly in excess of that required to achieve the dispersal of the crowd and that it resulted in lamentable and unnecessary loss of life and suffering. But this is not a full statement of Brigadier-General Dyer's error. (!!) There can be no doubt that large number of people in the assembly, many of whom were visitors to the city from surrounding villages, were ignorant of the existence of his proclamation and the danger which they ran by attending the gathering. The proclamation was published in only a portion of the city, that portion being some distance from the scene of the meetings, and no warning of any kind was given before fire was opened. It would be unfair, considering the state of the city, the heat of the weather, and the strain to which the troops under General Dyer's command had been subjected since their arrival in the city, to lay too great stress upon the first point, but the omission to give warning before fire was opened is inexcusable. Further that Brigadier-General Dyer should have taken no steps to see that some arrangement was made to give medical assistance to the dying and the wounded

was an ommission from his obvious duty but the gravest feature of the case against Brigadier-General Dyer is his avowed conception of his duty in the circumstances which confronted him. His Majesty's Government repudiate emphatically the doctrine upon which Brigadier-General Dyer based his action, which to judge from his own statement, might have taken an even more drastic form, had he had a larger force at his disposal, and had a physical accident not prevented him from using his armoured cars. They have not overlooked the extreme gravity of the situation as it presented itself to the authorities in India generally and to Brigadier-General Dyer in particular on the 13th April, nor have they failed to appreciate the immensity of the responsibility which Brigadier-General Dyer felt and rightly felt to be imposed upon him by that situation. They think it is possible that the danger to the lives of Europeans and to the safety of the British and Indian troops was greater than appears from the Committee's Report. In Amritsar itself violent murder and arson of the most savage description had occurred three days previously and the city was still practically in possession of the mob. From the surrounding countryside reports were hourly being received of similar violent outbreaks and attacks upon communications, and the deficiency in these reports (due to the success of the attack on communications) were supplemented by rumours which there was little means of verifying and as little ground for disbelieving. In discharging this responsibility with the small force at his disposal, Brigadier-General Dyer naturally could not dismiss from his mind the conditions in the Punjab generally and he was entitled to lay his plans with reference to these conditions, but he was not entitled to select for condign punishmsnt an unarmed crowd, which when he inflicted that punishment, had committed no act of violence, had made no attempt to oppose him by force and many members of which must have been unaware that they were disobeying his commands.

In passing judgment upon Brigadier-General Dyer for his action on the 13th April it is impossible to disregard an order which he passed some day's later, and which has become generally known as the crawling order. It is unnecsary here to report the nature of this order or the circumstances out of which it arose. Had the order been carried out as a punishment upon the persons actually guilty of the crime which it was designed to stigmatise, it would have been difficult to defend. Inflicted as it was upon persons who had no connection with that crime with the object of impressing upon the public of Amritsar through the humiliation of those persons the enormity of the crime committed by certain individuals of that public, the order offended against every cannon of civilised government.

Upon a military commander administering martial law in a hostile country there lies a grave responsibility. When he is compelled to exercise this responsibility over a population which owes allegiance and looks for protection to the Government which he himself is serving, this burden is immeasurably enhanced. It would prejudice the public safety with the preservation of which he is charged to fetter his free judgment or action either by the prescription of rigid rules before the event or by overcensorious criticism when the crisis is past. A situation which is essentially military must be dealt with in the light of military considerations which postulate breadth of view and due appreciation of all the possible contingencies. There are certain standards of conduct which no civilised government can with impunity neglect and which His Majesty's Government are determined to uphold subject to the due observance of those standards. An officer administering martial law must and will remain free to carry out the task imposed upon him in the manner which his judgment dictates to him as best and most effective and may rely upon the unqualified support of his superiors when his task has been accomplished. That Brigadier-General Dyer displayed honesty of purpose and unflinching adherence to his conception of his duty cannot for a moment be questioned, but his conception of his duty in the circumstances in which he was placed was so fundamentally at variance with that which His Majesty's Government have a right to expect from and a duty to enforce upon officers who hold His Majesty's Commission, that it is impossible to regard him as fitted to remain entrusted with the responsibilities which his rank and position imposed upon him. You have reported to me that the Commander-in-Chief has directed Brigadier-General Dyer to resign his appointment as Brigade Commander and has informed him that he would receive no further employment in India, and that you have concurred. I approve this decision and the circumstances of the case have been referred to the Army Council.'

The justification for the declaration and continuance of martial law—There are no grounds for questioning the decision of the majority of Lord Hunter's Committee that the declaration of martial law and the partial suppression of the ordinary tribunals in the districts of the Punjab in which martial law was applied were justified (Chapter 11, para 17). As regards the dates to which it was prolonged it is obvious that the institution of martial law involves the responsibility of deciding when it is to be revoked. The general principle is clear. Martial law should remain in force no longer than public safety demands, but beyond this there are no hard and fast criteria which can govern this decision and a retrospective judgment in the light of after events is not permissible. The fact that open

disorder had ceased some time before martial law was revoked may have been due to the existence of martial law, and its abrogation might have been followed by a recrudescence. Looking back in the light of events it is permissible to argue that earlier abrogation was possible, though His Majesty's Government can feel little doubt that this argument would have been less pressed than it has been hitherto had there been no ground for complaints of the manner in which in some cases martial law was administered. But it is not permissible to condemn the authorities responsible for the decision taken who had to rely only on their anticipation of the future.

Martial Law Courts

The justification for the Ordinance of 1919 giving the martial law commissions jurisdiction to try any offence on or after March 30th :—

The legality of this Ordinance is not at issue. That question has been recently determined by the judicial Committee of the Privy Council. nor is there any valid reason to question the propriety when (as was the case here) it can legally be done, of ante-dating an enactment setting up special martial law tribunals and procedure so as to bring within their jurisdiction persons charged with overt tacts of violence which were the immediate cause of, and justification for, the declaration of martial law. The original ordinance setting up martial law commissions in the Lahore and Amritsar districts gave the commissions jurisdiction to try offences committed on or after the 13th April. Had this date remained it would have been impossible to try by commission persons charged with actual participation in the murders, incendiarism and destruction of property which occurred on the 10th April at Amritsar or persons charged with participation in the riots at Lahore on the 10th and 11th April and in the murders at Kasur on the 12th, and if the Government of India with the legal power at their disposal had neglected to correct the anomaly to this extent they would have omitted an obvious and necessary step towards the restoration of normal conditions, but the use of the power which the Ordinance give in order to apply the special martial law method of trial to persons whose offence consisted in newspaper articles and speeches which were not demonstrably and immediately the cause of the outbreak of open disorder, stand on an entirely different footing, and the terms "unfortunate and imprudent" which the majority of Lord Hunter's Committee applied to this policy are at all events not exaggerated criticisms, taking into consideration the acts committed under Ordinance 4 of 1919, which it is impossible to disavow. His Majesty's Government can feel little doubt that the

terms of the Ordinance itself were too wide and that the drafting of any future Ordinance of a similar kind should ensure due limits to its applications.

Administration of Martial Law

There is one question with regard to which it is impossible to avoid the conclusion that the majority of Lord Hunter's Committee have failed to express themselves in terms which unfortunately the facts not only justify, but necessitate. In paras 16 to 25 of Chapter 12 of their report, the majority have dealt with the intensive form generally which martial law assumed, and with certain specified instances of undue severity and of improper punishments or orders. It is unnecessary to recapitulate the instances which the committee have enumerated in detail in both their reports, nor would any useful purpose be served by attempting, to assess with a view to penalties, the culpability of individual officers who were responsible for these orders, but whose conduct in other respects may have been free from blame or actually commendable, but His Majesty's Government must express strong disapproval of these orders and punishment, and ask me to leave to you the duty of seeing that this disapproval shall be unmistakably marked by censure or other action which seems to you necessary upon those who were responsible for them. The instances cited by the Committee gave justifiable ground for the assertion that the administration of martial law in the Punjab was marred by a spirit which prompted not generally but unfortunately not uncommonly, the enforcement of punishments and orders calculated, if not intended, to humiliate Indians as a race, to cause unwarranted inconvenience amounting on occasions to injustice and to alter the standards of propriety and humanity which the inhabitants not only in India in particular but of the civilised world in general have a right to demand of those set in authority over them. It is a matter for regret that notwithstanding the conduct of the majority there should have been some officers in the Punjab, who appear to have overlooked the fact that they were administering martial law not in order to subdue the population of a hostile country temporarily occupied as an act of war, but in order to deal promptly with those who had disturbed the peace of a population, owing allegiance to the King Emperor and in the main profoundly loyal to that allegiance. It is difficult to believe that this could have occurred had the civil authority been able to retain a larger measure of contact with the administration of martial law, and it is of paramount importance, if in the future it should unfortunately be necessary to have recourse to martial law, that some system should be devised which will secure

such contact effectively. A review of the methods and results of the trials by the summary procedure of martial law tribunals would be uncalled for. It is not however improper to observe that marked attention has been directed to its disadvantages, and to the extreme divergence between the sentences required by the charges as presented to those courts, and by the dictates of justice as they presented themselves to the reviewing authorities. It is to be hoped that as a result of the experience thus gained means will be devised whereby martial law tribunals can be improved if they have again to be employed.

The use of bombing aeroplanes at Gujranwala—With regard to the use of bombing aeroplanes at Gujranwala on the 14th April the majority of Lord Hunters's Committee expressed their views as follows :—"As to the use of bombs from aeroplanes we did not think that this would be defended by any one save in cases of urgent need in the absence of other means and under the strictest limitations. Even then in our opinion the first two of these conditions were present in full force. We are not prepared to lay down as a charter for rioters that when they succeed in preventing the ordinary resources of Government from being utilised to suppress them they are to be exempt from having to reckon with such resources as remain." They then proceed to state that no blame can be imputed to the flying officers concerned for carrying out the instructions given, illustrate their defectiveness, and they conclude by a recommendation that the formulations of instruction to be given to flying officers in future in similar circumstances should form the subject of careful investigation. In formulating these conclusions His Majesty's Government wish to state clearly that reconnaisance, communications, propaganda dropping and moral effect summarise the normal and correct use of aircraft under conditions of unrest in normally peaceful countries, but emergencies may occur when owing to distance or damage to communications or both and the progress of murderous mob violence and arson which there is no other means of checking, exceptions from this general position are not only justified, but necessary. It is impossible to guarantee by general or special instructions that machine guns or bombs will affect only the crowd which would be justifiably fired upon. But in future explicit orders must be required for the employment of armed aircraft in such emergencies. These orders should be issued in writing by a civil authority and should authorise only a limited amount of bombing and machine gun fire to be employed to overawe mobs which are so far as the airman can judge actually engaged in crimes of violence. The Government will see to it that instructions on those lines are issued as soon as possible. They regretfully agree with Lord Hunter's

Commit'ee that the instructions issued to the airmen who visited Guzranwala in this occasion left much to be desired in precision.

Sir Michael O'Dwyer at last ! ! !

It follows from what has been said in earlier paragraphs that on certain points arising out of this enquiry His Majesty's Government do not regard Sir Michael O'Dwyer as immune from criticism. Thus they cannot endorse the unqualified approval which he accorded on insufficient information to the action of Brigadier-General Dyer at Jallianwala Bagh, and they think it unfortunate that he did not adhere at the time to his first impulse to withhold both praise and blame on a matter with which as a civil officer he was not in the circumstances directly concerned. The motives which evidently prompted him to adopt another attitude and to maintain that attitude subsequently and in the light of fuller knowledge are less open to criticism. As regards the administration of martial law generally, Sir Michael O'Dwyer had evidently contemplated arrangements by which civil officers would be accorded a recognised position to advice on military administration, and the Martial Law manual which your Government have under consideration should ensure that in future this plan is brought into operation. With the general question of Sir Micheal O'Dwyer's administration of the Punjab His Majesty's Government are not now immediately concerned. They recognise that it has formed the subject of much controversy in India and that a widespread impression has been engineered that the Punjab Government under his direction was hostile to the educated classes and was determined to suppress not only illegitimate but also legitimate and constitutional political agitation. While they sincerely trust that this atmosphere may be dispelled, they are fully conscious of the difficulties of the situation with which he was faced. Conspiracy, the activity of enemy agents, the rise in the cost of living, and the necessity of furnishing the bulk of the vast number of recruits for the Indian army which the needs of Empire required, though fortunately powerless to disturb the loyalty of the province, as a whole caused constant anxiety throughout his term of office. That term has now ceased. A long and honoured connection with India has ended, and His Majesty's Government desire here to pay a tribute to the great energy, decision and courage which Sir Michael O'Dwyer brought to the task through a period of exceptional difficulty and to express their appreciation of his services.

Conclusions

As to the conclusions which Your Excellency's Government have recorded on the matters arising out of this report I am glad

to find that I am in general accord with your views save in so far as otherwise appears from the foregoing paragraphs and I have little further to add at the present moment. Your Excellency's Government will however understand that the publication of documents in which the public both in India and in this country is vitally interested is not necessarily a final setlement of all the large questions involved. I shall expect you to submit for my early approval the draft of the Martial Law Manual which you have under consideration. To this matter I attach the utmost importance. I need hardly say that I most earnestly trust that occasion may never arise for the enforcement of such rules but this enquiry will have served a valuable purpose if it results in the enactment of a code of regulations calculated to ensure a human foresight which can serve a system of administration which is at once adequate to repress disorder, to secure the speedy, just and fitting punishment of its promoters, and which yet subverts no more than the fulfilment of these requirements necessitates the ordinary rights and course of life of the people at large, and adheres to the processes of civil justice and Government. For in view of conditions which threaten the existence of the State, martial law is a necessary remedy, but it is a remedy which unless applied with wisdom and good judgment loses its value. It is therefore incumbent upon us to do all in our power to prevent the depreciation of its value by misuse. The same observations apply in my judgment to deportation, an expedient which in its present form it is so notoriously difficult to employ and the effects of which are so incapable of exact estimation. His Majesty's Government found it necessary to criticise in strong terms the conduct of certain officers charged with the administration of martial law, and Your Excellency's Government have indicated that all proved cases of abuse of their powers on the part of subordinate officers of the police and other services will receive due notice. But these exceptions apart His Majesty's Government desire me to express to you in no uncertain terms their warm endorsement of your appreciation of the conduct of officers and men, both civil and military, British and Indian, upon whom fell the heavy task of assisting the people of India to recover their fair name for loyalty and orderliness. The burden thus imposed upon officers and men of His Majesty's British and Indian armies, of his Police force and of his Civil Services who had already borne with fortitude but not without fatigue, the trials and strain arising from a long drawn war was a heavy one. In setting themselves to their task these men proved true to the great traditions of their service. His Majesty's Government wish further to express the profound regret they, equally with Your Excellency's Government, feel for the loss of life which these dis-

turbance occasioned, and their deep sympathy with those to whom the events have brought personal bereavements.

In conclusion I am glad to have this opportunity of assuring Your Excellency of the sense of obligation which His Majesty's Government fell to you personally for the manner in which you have fulfilled your trust. Great as is always the burden borne by the Governor-General of India, world-wide circumstances have combined to lay upon you a degree of anxiety such as has only at long intervals fallen upon any of your illustrious predecessors. His Majesty's Government desire that you should be fortified by the knowledge that they continue to repose the fullest confidence in Your Excellency's discretion inspired as they feel certain it has constantly been by the signal aim of the good of the people whose Government is committed to your charge.

The Hunter Report

The Hunter Committee Report was issued in India on May 26 1920 in a bulky volume of 200 pages with appendices containing maps and statistics. 100 pages are devoted to the majority report signed by the 5 English members and 60 pages to the minority report by the 3 Indian members. The report deals fully with each district and contains a chronological statement of events in the Punjab from March to August with details of each disturbance, damage to property, railway etc. The approximate damage in the Punjab was estimated at 25 lakhs of rupees.

Points of Agreement.

Both English and Indian members broadly agree in their views on the outstanding causes and principal events leading up to the outbreaks. They consider the Satygraha or civil disobedience movement of Mr. Gandhi responsible for undermining the law-abiding instincts of the population at a time when these instincts were strained to the uttermost by economic distress, war weariness, anxiety as to the political future of India, apprehension as to the Turkish peace terms, and the agitation against the policy of the Government of India in pressing forward and passing the Rowlat Act. They do not consider that the recruiting methods employed in the Punjab had anything to do with the unrest in that province but they point out the contrast between the awakening aspirations of India and the restrictions upon liberty inseparable from the war and post-war periods. The Indian members also refer to the belief that the

administration of the Punjab was unsympathetic in its attitude towards these aspirations. With the exception of the Jallianwalla Bagh and certain minor incidents both Indian and English members generally agree in justifying the firing done by the police and military. They agree in pronouncing unfavourably upon General Dyer's handling of the Jallianwalla Bagh meeting and upon certain of the orders passed in the course of the administration of martial law. They agree in exonerating the Government of India from all blame.

Differences.

The Indian and the English members differ in their view as to the precise nature of the disorders, as to the wisdom of introducing and continuing martial law, as to the justification for the policy pursued by the Punjab Government while the troubles were imminent and as to the gravity and proper appreciation of certain of the happenings, and on the broad question of the nature of the disturbances. The English members emphatically state that "open rebellion" is the only suitable description, possessing as they did a public general object, namely an attempt to paralyse the arm of Government by extensive destruction of Government buildings and means of communication. "The element of rebellion", the English members say, "as distinct from mere riot on the one hand and from political opposition to Government on the other, can be traced throughout. In what sense it may be considered to lack openness, we have failed to discover". They consider that the nature of the movement is not affected by the omission of the mob to seize firearms since implements appropriate to the work of destruction were never lacking. They lay stress upon the gravity of the menace to communications and upon seditious language used by mobs and violent posters exhibited in certain places. The Indian members, however, while admitting that the acts of the mob may amount to waging war in the legal sense, object to the description of the disorders as "open rebellion" on the ground that "open rebellion" implies a rising for the purposes of turning out the British Government which was not the intention of the riots. They say "we are unable to agree in the view that the riots in the Punjab were in the nature of a rebellion. To suggest that they had elements of a revolution and might have rapidly developed into one is, we venture to say, an exaggerated view of the events, which is not justified". They do not share the view of the English members as to the extreme gravity of the attacks upon railways, telegraphs and bridges but point out the omission of the mobs to look for sword and guns, further stressing the entire absence of evidence regarding an antecedent conspiracy as a mainspring of the disorders.

Martial Law.

There is a further difference of opinion concerning the necessity for the imposition and continuance of martial law. The English members say that it was difficult, probably unsafe, not to assume at the time that the outbreaks were the work of a definite organisation and that it would have been imprudent to treate the different acts as independent and isolated riots. "In our opinion", they say, "the situation which had arisen in in the Punjab was one of extreme gravity and the authorities were justified in declaring martial law and partially superseding the ordinary tribunals in the different districts to which martial law was applied". They further consider that those responsible for the maintenance of martial law gave careful and considerate judgment, which cannot be critised, to its continuance. On the other hand, the Indian members censure the Punjab Government for assuming the disorders to be a rebellion and for persuading itself rather easily that martial law was necessary. They state that martial law came into existence when the crisis was past, at a time when the situation afforded no justification for it. They declare that its imposition for preventive and punitive purposes is constitutionally unjustifiable, further objecting to its continuance as wholly unnecessary.

The report investigates in detail the origin and course of the disturbance in various localities. Both Indian and English members are in a complete agreement respecting events in Delhi and Bombay, holding that the measures taken by the authorities were reasonable and paying tribute to the conduct of Mr. Barron, Chief Commissioner of Delhi and Mr. Chatfield, Collector of Ahmedabad. The Indian members are not quite so confident as the English members as to the merit of the restrictions placed upon Mr. Gandhi's movements, but they admit the possibility that developments dangerous to the public peace might have ensued from his presence at Delhi and in the Punjab. Regarding Amritsar, the English members held that the outbreak was anti-Government at every stage, hostility to Government quickly merging into antipathy for Europeans as such and culminating on April 10th in the brutal murder of 5 inoffensive persons and savage assaults on others. The Indian members think that the anti-European sentiment developed subsequent to the Police firing on people on April 10th but do not dissent from the view that the firing was necessary.

Genl. Dyer's Conduct.

The English members approve of the action of the authorities prior to April 13th, considering it impossible that de facto martial law could fail to result from the happenings of April 10th, but while admitting the difficulties of the situation, they consider that General

Dyer's conduct at the Jallianwala Bagh is open to criticism in two respects, first in that he fired without warning, and second in that he continued firing too long. They do not believe that the mob would have dispersed if warned and consider that firing would have been necessary in any case. They consider that General Dyer, through a mistaken belief that continued firing would be justified by the effect produced in other places, committed a grave error in firing too long. They find no grounds for believing that this action saved the situation and averted a second Mutiny but they do not think that General Dyer can be blamed for not attending to the wounded, as they are not convinced anyone was exposed to unnecessary suffering for want of medical attention. This opinion is not shared by the Indian members who, while agreeing in the condemnation of General Dyer's action, take a graver view of the whole incident, stigmatising his conduct as inhuman and un-British.

Regarding outbreaks in other towns of the Punjab, both English and Indian members generally approve the conduct of the authorities, endorsing the action taken at Lahore, Kasur, Gujranwalla and elsewhere. The use of aeroplanes in an emergency so grave is approved but stress is laid upon the dangers inseparable from that employment and the difficulty of justifying every detail of the action taken.

The Indian members emphasise this difficulty, object to certain specific incidents and further regard as unjustifiable some of the firing done at Chuharkhana and Sheikhupura.

The Martial Law Courts.

In considering the working of the courts set up to try the offenders, the English members believe the trial to have been lengthy, detailed and careful but regard it as inexpedient to have sent some of the accused, notably Mr. Kitchlew and Mr. Satyapal before the ordinary courts. They note that the necessity for making excessive reductions in the original sentences could have been lessened if in the case of minor offenders charges had not been pressed, which when established, left the tribunal no option but to pass sentences of the severest kind. They think, that while the number of persons arrested and detained without being brought to trial was regrettably large, the very difficult work of arrest and investigation was on the whole not done badly or oppressively. The Indian members here differ regarding the working of the courts and the methods of arrest as unsatisfactory. All the members are agreed in commenting unfavourably upon the exclusion of outside lawyers from the Punjab and in considering that the sentences of flogging were too numerous having regard to the strong public sentiment which exists in India against corporal punishment.

Regarding the general administration of Martial law, the English members regret that it should have assumed such an intensive form, further condemning certain of the orders as injudicious and calculated to cause unnecessary inconvenience to the civil population. They object to General Dyer's order that any one desiring to traverse the street where Miss Sherwood was brutally assaulted should crawl. They also object to the orders passed at Gujranwalla and Kasur relative to salaming. The orders passed in Lahore against students are condemned as unnecessarily severe and serving no useful purpose. On all these matters the Indian members take a more serious view considering these orders and some others indefensible, unjustifiable, calculated to humiliate Indians, to punish alike the innocent and the guilty, and to foment racial bitterness.

The Majority Report

The following are some of the main extracts from the Majority Report of the Committee :—

General Dyer and Jallianwala.

General Dyer's action in firing on the crowd at Jallianwala Bagh is open to criticism in two respects. First that he started firing without giving the people who had assembled a chance to disperse and second that he continued firing for a substantial period of time after the crowd had commenced to disperse.

In the ordinary case where a proclamation has been issued forbidding assemblies of people and intimating that a gathering held in definance of the proclamation may have to be dispersed by military fire, notice is properly given to the crowd before they are actually fired upon. The military situation at the time e.g., the risk of a small force of soldiers being overwhelmed by a threatening mob, may justify firing without the formality of giving a notice to disperse being observed. The only person who can judge whether or not such an emergency has arisen is the officer in command of the troops. In his report to the General Staff, dated 25th August 1919 General Dyer does not suggest the existence of such an emergency from anything observed by him in the demeanour of the crowd prior to his giving the order to fire. When examined before us, he explained that his mind was made up as he came along in his motor car—if his orders against holding a meeting were disobeyed he was going to fire at once. Apparently he looked upon the warning which he had given in the morning as sufficient notice and justification

for his firing upon a crowd assembling in defiance thereof. As he expresses it in the report to which we have just referred : "My work that morning in personally conducting the proclamation must be looked upon as one transaction with what had come to pass. There was no reason to further parley with the mob, evidently they were there to defy the arm of the law."

In continuing to fire for so long as he did appears to us that General Dyer committed a grave error. As soon as firing started the crowd began to disperse. Mr. Plomer, Deputy Superintendent of Police, who was with General Dyer on the 13th April arrived at Jallianwala Bagh in a motor-car behind the car in which the General drove. On his getting into the Bagh firing had started and was continued for about 10 minutes during which time the crowd was trying to escape as far as they could. General Dyer made his statement very frankly to us and we believe that he honestly considered that he was called upon in the discharge of his duty to take the extreme step which he did. The situation as it presented itself to his mind during the time that had elapsed since his arrival at Amritsar was serious and difficult. On 12th April he had received a communication by aeroplane in the following terms :—

"Telegraph line reported cut this morning between Cantonment East and Harbanspura. Lahore quiet. Kasur reports at 06-10 armoured train visited Khem Karan during night and found station wrecked but no casulties. Rioters in small number apparently organised for destruction left in direction of Sutlej." On the same day he had a telegram from the Telegraph Master reporting that all telegraph wires between Lahore and Amritsar had been cut and other communications as to the attack on the station and on Europeans at Kasur. On the 13th April he was informed by Mr. Miles Irving that secret meetings had taken place near the Ram Bagh where his headquarters were. From these communications General Dyer concluded that there was a widespread movement which was not confined to Amritsar alone. He was afraid that an attempt might be made to isolate his forces and cut him off from other supplies.

Attention to Wounded

General Dyer's action in not attending to or making provision for the wounded at Jallianwala Bagh has been made the subject of criticism. It has to be remembered, however, that he was acting with a very small force and that after firing ceased he at once withdrew to his quarters at Ram Bagh. On being questioned as to whether he had taken any measures for the relief of the wounded, General Dyer explained that the hospitals were open and the medical officers were there. "The wounded only had to appply for help. But they did

not do this because they themselves would be in custody for being in the assembly. I was ready to help them if they applied." He added that it never entered his head that the hospitals were not sufficient for the number of wounded if they cared to come forward. It has not been proved to us that any wounded people were in fact exposed to unnecessary suffering from want of medical treatment.

The first communication that reached Lahore of what had occurred at Jallianwala Bagh was in a mutilated message to the Deputy Inspector-General of the Criminal Investigation Department at about 11 or 11-15 on the night of 13th. It was telephoned to Mr. Thompson, the Chief Secretary, in the following terms :—

"11-30 P. M. Got message from the Deputy Commissioner, Amritsar much mutilated. Sense seems to be—seven arrests were made today—a prohibited meeting dispersed. Communicated to Colonel Gasnell who had no report from the General Officer Commanding Amritsar. Rumours heavy casualties in Amritsar to-day.'

About 3 A. M. on the 14th the two gentlemen arrived by motor-car with a communication from the District Magistrate. The Lieutenant-Governor was informed of this message. It was to the effect that the meeting at Jallianwala Bagh had been dispersed by force and that the death casualties amounted to about 200. Sir Michael O'Dwyer says that he was informed that only British troops had been used and that there was no civil officer with General Dyer at the time. He asked for details from General Beynon. Early next morning General Beynon telephoned General Dyer's report to the Lieutenant-Governor's Private Secretary. "I made no record of the message," says Sir Michael O'Dwyer. "It showed as far as I can remember that General Dyer had used only Indian and Gurkha troops, that he was accompanied by the Superintendent of Police. I am stating the message as I remember to have received it—that he had to disperse a mob of several thousands assembled in open defiance of his proclamation that morning, that the death casualties had been about 200 and that order had been completely restored in Amritsar. That was the message briefly as far as I remember it. It was General Beynon's summary of the message he had received from General Dyer and General Beynon who is General Dyer's superior said that he fully approved of General Dyer's action and asked if he might convey my approval." According to Sir Michael the time was not one for disputing the necessity of military action. "I approved of General Dyer's action in dispersing by force the rebellious gathering and thus preventing further rebellious acts. It was not for me to say that he had gone too far when I was told by his superior officer that he fully approved General Dyer's action. Speaking with perhaps a more intimate knowledge of the then

situation than any one else, I have no hesitation in saying that General Dyer's action that day was the decisive factor in crushing the rebellion the serious nature of which is only now being generally realised."

Gujranwala

Referring to the Gujranwala incident the report says:—

The police were nearly exhausted when, at about ten minutes past three in the afternoon, three aeroplanes from Lahore arrived over the town. It was not until aboout 9 o'clock at night that the first troops arrived.

The main object of the mob was certainly to destroy all Government buildings and there is little room for doubt that they were imitating or repeating what they had heard of Amritsar on the 10th. When in the civil station they do not appear to have gone hunting for Europeans in their bungalows. The District Engineer and his wife and children had been warned by Mr Heron and took refuge in the Treasury which was protected by a small guard under a Havildar. There were few other Europeans in the town apart from officers actually engaged in dealing with the mobs. In these circumstances no Europeans actually came within the grasp of any of the crowds though the mob persistently showed its anger against Mr. Heron and shouted threats to kill him.

It is naturally difficult to discover with precision upon what acts the different mobs were engaged at the moment when the aeroplanes arrived. A witness tells us that they were burning the Industrial School at the time. They had moreover set fire to the church and probably to the goods-shed only a few moments before. Crowds were infesting the locality of the station ; it seems impossible to supppose that they had changed their intent and were not still bent on mischief as before. There was still every ground for great anxiety as to the safety of the Europeans in the Treasury and elsewhere.

The state of the town is best shown as it presented itself to the eyes of Captain (now Major) D. H. M. Carberry, M.C., D.F.C., First Commander, No. 31, Squadron, whose aeroplane arrived first. At heights varying from 100 to 700 feet he flew over Gujranwala and the villages within an area of three miles to reconnoitre the position. He saw that the railway station was burning and also goods in the goods-shed. There was a train on the up line which appeared to be on fire as well. The station was crowded with people and there was large numbers of people round it, on the roads leading from the city to the civil lines and in the streets of the city. The English Church and four houses in the civil lines on the east of the railway were also burning.

Major Carberry first took action outside the town of Gujranwala. He dropped, he tells us, three bombs on a party of Indians, 150 strong which was making for Gujranwala. This was outside a village about two miles north-west of Gujranwala. (We are informed that the name of this village is Dhulla.) One of the bombs failed to explode; the others fell near the party and scattered it. There people were seen to drop as a result of this bombing. We are informed by the Punjab Government that a woman and a boy were killed and two men slightly wounded. The rest ran back to the village, and fifty rounds were fired at them with machine-guns to ensure that they were effectively dispersed. A few minutes later Major Carberry took action on a group of 50 Indians outside a village about a mile south of the first. This was, we understand, the villlage of Gharjakh. Major Carberry tells us that the party were apparently returning from Gujranwala, and that he dropped two bombs only one of which burst, but this though it dropped near the party, did not cause any casualties. The party disappeared into the village, 25 rounds from the machine-gun being fired after them without any visible effect. So far as our information goes no casualties resulted at this village from action taken.

The aeroplane was now returning to Gujranwala. Major Carberry observed a party of about 200 Indians in a field near a large red building on the north-west outskirts of the town. This was the Khalsa High School and Boarding House. He dropped a bomb which burst in a courtyard and several people appeared to be wounded. Thirty rounds were fired at the party with the machine-gun and took cover in the house. We are informed that so far as is known the casualties on this occasion were one man hit by a bullet, one student by a splinter and one small boy stunned.

In the town itself, and apart from what has already been narrated, there were only two bombs which burst. Major Carberry dropped eight bombs in all and six have already been accounted for on his report. We were informed by the Punjab Government in its report that two bombs which did not explode were dropped in the town and it is certain that two very effective bombs which did explode were dropped near certain level crossings in the vicinity of the railway station and goods-shed. There is some difficulty in identifying the two bombs, which Major Carberry describes to us as having been dropped by him, with the two which burst because Major Carberry did not see the bursts and thought at the time that they had failed to burst. Subsequently, however, he concluded that the two dropped by him must be the bombs that burst near the station but though probable this is not quite certain and he did not profess to identify them in his evidence. The two which he dropped were

intended for a large crowd in the centre of the town and apparently near the station. The first killed four and wounded five; the second seems to have killed two and may have wounded as many as six: He also fired 100 or 150 rounds upon parties of Indians coming from the railway station and going to the civil lines. He returned to Lahore about 10 minutes to 4—the time during which he had been over Gujranwala being about three-quarters of an hour.

Of the other two aeroplanes sent to Gujranwala from Lahore, one took no action; the other fired 25 rounds from its machine-gun upon a gathering of 20 to 30 persons on a level-crossing between the civil lines and the city, but dropped no bombs.

Colonel O'Brien, the Deputy Commissioner of Gujranwala, informed us that so far as could be ascertained the total casualties in Gujranwala on 14th April, including those killed by bombs and machine-guns and those shot by the police, were 11 killed and 27 wounded.

Decision justified.

It appears to us that in the circumstances the decision to use bomb-carrying aeroplanes at Gujranwala on the 14th April was justified. When it is possible to render assistance in time by the despatch of troops recourse to bombing from aeroplanes is in our opinion indefensible; other uses of aeroplanes may perhaps be defended: but the absence of information, moment by moment, from the ground, the imperfect opportunities of observation as to the demeanour of the crowd and other matters and the difficulty of ensuring accuracy in firing upon particular targets, are factors which in greater or in less degree call for caution in the use of this arm for the purpose of direct offensive action against crowds. We do not consider it within our duty or within our competence to attempt a decision as to matters which are not only technical but which will change perhaps rapidly, as the equipment, skill and methods of the Air Force advance. For this reason we say nothing here as to such other uses, but as to the use of bombs from aroplanes we do not think that this would be defended by any one save in case of urgent need, in the absence of other means, and under the strictest limitations even then. In our opinion the first two of those conditions were present in full force. Whether one looks to the actual facts as they appear after subsequent investigation, to the facts as apparent at the time to persons on the spot, or the facts as known at Lahore at the time of taking the decision, the urgency and the extremity of the need for prompt disposal of the rioters is incontestable. The orders given to the Wing Commander by the General Staffs were: "to send machines out with bombs and machine-guns to disperse the rioters at Gujranwala with the object of saving lives of any of the white popu-

lations which were in danger." The rioters had cut off communication by telegraph or telephone between Gujranwala and outside places; they had been trying their best to make the railway useless for sending troops to the town: their violence could only be measured when it had been stopped: it was not stopped till the aeroplanes appeared: the police had definitely failed to impose control and were practically exhausted: troops despatched on the earliest information did not arrive till five hours afterwards: there was no certainty of troops reaching there that day at all: and there were no other troops which could be sent. We are not prepared to lay down as a charter for rioters that when they succeed in preventing the ordinary resources of Government from being utilised to suppress them they are to be exempt from having to reckon with such resources as remain.

In acting as they did, Major Carberry and his fellow officers carried out the instructions which had been given to them and it does not appear to us that blame can be imputed to any of them. We think, however, that the action taken under the instructions given illustrates their defectiveness. So far at any rate as the use of bombs is concerned we are unable—apart from the fact that Major Carberry was carrying out orders which he was bound to obey—to uphold the action taken by him in either of the two villages or the action taken at Khalsa High School in the north-west out-skirts of the town. The element of immediate and manifest urgency is lacking as a justification for these bombs, particulary so in the case of Gharjakh where a party of fifty people were apparently returning from Gujranwala. We are glad to record that in this case no casualties appear to have been caused. It is difficult to feel certain that it was necessary to fire with the machine-gun upon the parties at Dhulla and the Khalsa High School in order to disperse these parties effectively: but we are not prepared to impute blame for the officers' decision taken in the air and at a moment.

As regards the bombs which fell in Gujranwala, we confine ourselves to the two bombs which burst. This action we uphold. These bombs appear to have fallen in the midst of rioters caught in the act of rioting and fully minded to continue. We do not doubt that upon the actual swoop of the aeroplane the crowds would commence to move off, but no person forming part of the mob at the place where these bombs fell and at the time when the aeroplane took action could reasonably complain, either on the ground that he was now minded to go away or for want of notice that strong measures would be taken, or otherwise. These bombs were not only justified, but in our view, were invaluable, and the fact that the

disorders were ended by the aeroplanes long before troops arrived, is, we think, in large measure attributable to them.

Major Carberry's action in firing with his machine-gun upon crowds in the streets of Gujranwala does not appear to us excessive. He explained to us that there was a large crowd and these rounds were fired at people who were collecting round the station and who were running away when they saw him begin to fire. It is no doubt difficult to judge from a flying machine moving rapidly in air, the moment at which effetive and definite dispersal of a large crowd has been ensured. The first sign of movement is not a point after which any rounds fired from an aeroplane must be condemned as unnecessary ; in this case a large crowd had to be got and kept on the run until the clearing of the station and the area of the outrages was ensured.

Instructions to aeroplanes.

The instructions which should be given to officers in charge of aeroplannes when employed in the suppression of disorders might appropriately form the subject of a careful inquiry by those in command of the Air Force. Special problems are presented in the use both of bombs and machine-guns from the air and there may be other means with which an aeroplane might be provided for dispersing crowds. As Sir Michael O'Dwyer has shown in the passage already quoted from his evidence, the authorities at Lahore had given their best consideration in the circumstances to the question of the instructions with which aeroplanes should be sent out in case. It may not be in all cases adequate, and if adequate it may not be practicable as working instruction to an observer, that the crowds to be bombed or fired upon are such only as appear to be actually engaged in the work of destruction, or about to engage in such work. The witnesses with which an aeroplane can arrive at the scene of disorder, the large measure of immunity from attack from the ground and its independence of all external aid in getting there, are advantages which must always count heavily and in no country, more so than in India, but these in their turn must be heavily discounted unless instructions to observers can be so formulated as to leave them with a discretion which is controlled upon clear and practicable lines and limited strictly, as regards the more violent of the measures which are open to them.

On the 15th April Lieutenant Dodkins received instructions in the early morning to take an aeroplane and make a route-reconnaissance over the railway between Lahore and Gujranwala to ascertain if the railway had been destroyed or the route cut in any way and also to make a district reconnaissance of Gujranwala and

report on the general situation. He was further ordered to take offensive action on any large gathering of people.

He found no such gatherings in Gujranwala, but in a field about a mile to the west he saw a gathering of about 20 people whom he scattered by firing his machine-gun, but without aiming it so as to hit the crowd. We have no information that any casualties occurred. A few minutes later he noticed in a village about half a mile to the west of Gujranwala a gathering of from 30 to 50 men who were standing in a semi-circle round the door of a house, being addressed by a man from the door. On the approach of the aeroplane this party entered the house. Lieutenant Dodkins dropped a bomb which hit the adjoining house and below in the side. We have no information that this caused any casualties but no sufficient explanation has been given to us to justify the use of this aeroplane for purposes of offensive action.

Martial Law Orders.

As regards martial law orders and cases arising out of the breach thereof we think it unfortunate that, in several important respects, martial law assumed as intensive a form as it did. It was not being administered in an enemy country but in a country where, on the restoration of normal conditions, it was advisble that martial law admistration should leave behind as little feeling of bitterness and unfairness as possible. Some of the orders issued were injudicious. They served no good purpose and were not, in our opinion, drawn with sufficient tact to prevent undue annoyance to the civil population.

Crawling Order.

The most criticised of these orders is probably, what has come to be known as General Dyer's crawling order.

On 10th April 1919 Miss Sherwood while bicycling in Amritsar had been brutally assaulted and left for dead in a street of the city. The perpetrators of this dastardly offence were deserving of the severest punishment. Some days after the assault had been committed General Dyer erected a triangle or whipping post at the place where Miss Sherwood fell. His intention was that those who had been guilty of the assault should be publicly flogged at this triangle. He placed two pickets at different parts of the street with instructions that no Indians were to pass between these points of the street, but be added that if they had to pass they must go on all fours. This order was issued on the 19th April, i.e., 9 days after the assault had been committed on Miss Sherwood. It continued in force until 26th April when it was withdrawn on the instructions of the Punjab Government who disapproved of it.

At the time when he issued the order General Dyer says that it never entered his brain that any sensible or sane man would intentionally go through the street, which he desired to close. Unfortunately, just after he gave the order to the picket, some men were brought by the police before General Dyer for not salaaming and on account of their impertinent demeanour to him, he ordered them to be arrested and taken to the police office. These men were taken by the police past the picket, who insisted on their crawling. General Dyer, however, explains that, in ordering their arrest and removal to the jail, he had no idea that they would pass along the street to which the crawling order applied. On the following day six men were sentenced to be flogged for some breach of fort discipline—the exact nature of their offence was not proved. They appear to have been under arrest for the assault on Miss Sherwood. They were taken to the whipping post and there flogged. On their way from the picket to the post and back they were made to crawl. We understand that these six men were afterwards convicted of the offence against Miss Sherwood with which they were charged. In addition to the cases we have mentioned other people had to crawl along the street. Altogether about 50 people seem to have done so. There are a number of houses that abut on the street. The inhabitants of these houses have occasion to use the street for the purpose of getting the necessaries of life or on other legitimate occasions. General Dyer thought all the houses had back entrances, but in this he was wrong. On this error being pointed out to him he suggested that it was only a slight inconvenience for the people to go on the roofs of the houses and improvise other means of getting supplies than using the street. In this we cannot agree. The order is certainly open to the objection that it caused unnecessary inconvenience to a number of people and that it unnecessarily punished innocent as well as guilty. Above all from an administrative point of view, in subjecting the Indian population to an act of humiliation, it has continued to be a cause of bitterness and racial feeling long after it was recalled.

Another order open to similar objection, though in a less degree, is the salaaming order pronounced by General Campbell on 22nd April 1919. That order is in the following terms: "whereas it has come to my notice that certain inhabitants of the Gujranwala District are habitually exhibiting a lack of respect for gazetted or commissioned European Civil and Military Officers of His Majesty's Service, thereby failing to maintain the dignity of that Government, I hereby order that the inhabitants of the Gujranwala District shall accord to all such officers, whenever met, the salutation usually accorded to Indian gentlemen of high social positon in accordance

with the customs of India. That is to say, persons riding on animals or on or in wheeled conveyance will alight, persons carrying opened and raised umbrellas shall lower them, and all persons shall salute or 'salaam' with the hand." It may be right enough that during the administration of martial law all the civilian populations should salaam or or salute officers of His Majesty's Service. The marks of respect, however, mentioned in the order which were shown by social inferiors to their social superiors are practically no longer in observance. No good object was served by making all Indians, whatever their station, show these signs of respect to all Commissioned Officers.

The orders of Colonel Johnson as administrator of Martial Law in Lahore civil area against the students of that city are also open to criticism. On 16th April, on the narrative that it was in the interest of the preservation of law and order to restrict the activities of the students of the D. A. V. College in spreading seditious propaganda, he pronounced an order requiring all the students of that college to attend a roll call at the Bradlaugh Hall at four different hours during the day. A similar order requiring the students of the Dyal Singh College to attend four roll calls at the telegraph office was pronounced on 19th April. By a later order, pronounced on 25th April, the students of King Edward Medical College were required on four occasions during the day to report themselves to the officer commanding the troops at Patiala House. The students of this college were ordered to give up their bicycles to an officer appointed to receive them and the possession of a bicycle was deemed a contravention of martial law. Compliance with the order for attendance at roll calls necessitated the students in many cases walking about 16 miles a day during the hot weather in Lahore.

On 17th April in consequence of a martial law notice outside the college being torn or defaced in contravention of a martial law order, another order was issued ordering the immediate arrest and internment in the Lahore Fort, pending further order as to their trial or otherwise, of all male persons domiciled in the Sanatan Dharam College Hostel. Under this order between 50 and 100 students and their professors were arrested and marched a distance of about three miles to the Fort where they were detained about 30 hours.

Some of the students of the different colleges in Lahore had been in the unruly mobs that assembled in the Mall at Lahore on 10th April. They had of recent years taken an increasing interest in political matters and some of them had given utterance to seditious sentiments, and punishments of a disciplinary character were no doubt called for, but we think the orders to which we have referred

were necessarily severe. It would have been more prudent in our opinion if the military authorities had consulted the college authorities as to the orders to be passed. From the evidence given to us the latter bodies appear to have disapproved the above orders as serving no useful purpose.

Flogging.

The infliction of sentences of flogging by Area Officers for offences committed against martial law orders is subject to criticism in some respects. When martial law was declared triangles or whipping posts were set up in Amritsar near the Fort and at some other places in the city the intention being that flogging should take place in public; but few were so carried out. At Lahore the position is thus described by Colonel Johnson. The places where flogging took place were "more or less in the vicinity of the courts, where the sentences were passed i.e., the Reservoir Chauks, in the immediate vicinity of the courts, and some were sent down to the Kotwali. The Civil Magistrate was sitting in the Telegraph office. They were flogged in the compound there. There were 10 cases altogether of that kind. Then there came an expression of wish—that was practically an order from the Commander-in-Chief—that flogging should not take place even in semi-public. After that the other 55 were flogged in the Central Jail, Lahore." We are of opinion that even under martial law administration, no floggings should take place in public.

The impression made upon our mind by the evidence is that there were too many sentences of flogging pronounced. From an examination of the cases of flogging inflicted for breaches of martial law orders it appears that the punishment of whipping was regarded as "probably the most efficacious and convenient method of summarily dealing with most minor breaches of Martial Law Regulations." We find it inflicted for contravention of the curfew order, for failure to salaam a Commissioned Officer, for disrespect to a European, for taking a commandeered car without leave, for refusal to sell milk and for other similar contraventions. In view of the strong public sentiment in India against corporal punishment we think it would be advisable that some restriction should be imposed on the discretion of Area Officers in giving sentences of whipping.

Allegations have been made that sentences of whipping were carried out in a particularly cruel fashion and that some people practically succumbed to the injuries that were inflicted. In our opinion there is no foundation for such suggestions. Instructions were issued that old and feeble men should not, under any circumstances be flogged and that the social status of offenders also required

consideration. These instructions appear to have been very generally carried on.

A number of cases were brought to our notice where punishment of a different character from that mentioned in the Martial Law proclamations was inflicted. This was particularly so in the case of the administration of martial law at Kasur. Many rumours, for the most part without any real foundation, were circulated as to Captain Doveton's 'Fancy Punishments.' According to that officer's statement he invented some minor punishments for cases which he did not think serious enough to merit being dealt with as provided in General Beynon's Proclamation. The most generally imposed of these punishments was that of working on the railway. In one case a man accused of an offence suggested that he would skip if he were exempted from working in the goods-yards as a punishment. He was allowed to do so and afterwards a number of people were prescribed skipping exercise instead of being punished in a regular fashion. An accused who was of a poetical disposition was set the task of composing a poem in praise of a martial law officer which he read in the market place. These punishments do not appear in Captain Doveton's return of punishments but the fact they were imposed on gave rise to strange rumours. It was said, for example, that a sadhu had been ordered to be whitewashed. As explained by Captain Doveton this rumour seems to have arisen in this way. "There was a particular peace of work to be done in the goods-yard, I mean the clearing of a siding. There was an undelivered consignment of lime. I mean the owner had not taken delivery of the consignment and the whole siding was blocked. I ordered that this should be removed, at least I was told that that was the only work on hand that day, and it was the rainy season, and I think these people were covered from head to foot. They had shovels with them, and they were covered with lime from head to foot." One of the men made to do this work was a "sadhu" and in the course of his work he got covered with lime. Unfortunately the same officer, i. e., Captain Doveton pronounced an injudicious order that all convicted prisoners should salaam by touching the ground with their forehead. From this order sprang the rumour that he had compelled men as a punishment to draw pictures in the dust with their noses. General Hudson explained to us that although the proclamation of law laid down three forms of punishment, this did not preclude the officer on the spot from imposing slighter punishment upon the civil population on the analogy of what is sometimes called minor punishments in the army but he thought that there should always be a record of the punishment, whatever it might be, that was imposed. We agree in the latter expression of our opinon. We also think that some

limitation on the nature of the punishment which he is to impose should be placed on the discretion of the officer on the spot administering martial law. We cannot think that a limitation of this sort would unnecessarily tie his hands. The instructions issued should if necessary be extended so as to include special forms of punishment in particular cases.

During the administration of martial law one or two regrettable incidents occurred where people failing to answer the challenging of sentries were shot. The result of enquiries made at the time seemed to show that the action of the sentry, though regrettable was not blameworthy. Some complaints were made against members of the police force for black-mail. These were investigated into by the police authorities and if the complaint was established the offender was dealt with. Near Kasur a sepoy, who had plundered some clothes in Khara village, was arrested and tried by court-martial. On being convicted he was sentenced to 6 months' imprisonment and dismissed from the service.

The Majority Report is signed by the 5 British Members of the Committee:—

William Hunter (Lord) — T. Smith (Chamb. of Comm. U. P.)
G. C. Rankin (Justice) — W. F. Rice (Govt. of India)
G. DeS. Barrow (General, Indian Army)

The Minority Report

The following pages give in extenso the Minority Report of the Hunter Committee except the first chapter where the agreements and disagreements with the majority report are indicated in a general way. In India this is the only authoritative Report that counts, just as, had there been an enquiry into the Sack of Louvain or into some other Belgian affair during the late War, the Report of the Belgiam Members would have counted more than any other. In concluding the first chapter of their report the Indian Members say:—

"We must note that the evidence produced before us was mainly official evidence; only a negligible number of volunteers offered themselves. In the anxious consideration we have given to the materials placed before us, while giving the fullest weight to that evidence we could not lose sight of the fact that it was in the main the evidence of officials whose administration was under review and there was virtually no non-official evidence. Allowance must therefore be made for the possibility that, if non-official evidence had not been withheld, our conclusions regarding some incidents might have been different."

The Indian Minority Report
of the Hunter Committee
Circumstances existing in the beginning of 1919

1. In order to arrive at a correct conclusion regarding the real nature of the disorders of April 1919, it is necessary to bear in mind the circumstances existing in the beginning of the year 1919, in the country generally and in the places where these disorders broke out in particular. Those circumstances have been fully stated in paragraphs 2 to 8 and 19 and 20 of the chapter on Causes in the Majority Report, in which chapter, subject to a few reservations as already stated above, we entirely agree. For four years and more the resources of India like those of the other members of the British Empire, had been strained to the utmost in the prosecution of the war. A large effective army had been supplied, the Punjab itself making a substantial contribution of £400,000. India has raised three war loans, and contributed £100,000,000, as its quota to the Empire's war expenses. Besides the direct contributions in men and money there were indirect contributions of a substantial character in various ways. The prices of necessaries of life and other commodities of daily use had increased immensely owing to the war, pressing very heavily on the middle classes and people of limited means. People with fixed moderate incomes were most hard hit in this direction, and among them were the subordinate railway officials who were therefore discontented. Curtailment of facilities of travelling and of import and export of merchandise had also created considerable hardship. The operations of the Defence of India Act and the rules thereunder and of the Press Act had encroached upon the ordinary standard of liberty.

2. While the war was on, all the restraints and hardships, though felt bitterly, were suffered patiently, because of the common purpose of winning the war. But the people generally had hoped that the defeat of Germany and the successful ending of the war for the Allies would immediately end the abnormal conditions and bring into existence a happy and prosperous era. After the Armistice was concluded in November, 1918, the prevailing abnormal conditions, instead of vanishing, became aggravated, particulary in relation to high prices. The ordinary people naturally became discontented with

their lot. There was widespead famine in the country owing to the failure of the monsoon of 1918, and the prevalence of influenza and other epidemics had resulted in a very heavy mortality. The new Income-tax Act and the more searching methods of enquiry in relation thereto as well as the interference with trade conditions already referred to had made the trading community restless.

3. The war had also created throughout the world a new outburst of freedom and liberty, and the same visibly affected India. The Imperial Government had, as early as August 1917, made a declaration of policy by which the attainment by India of Responsible Government by successive stages was put forward as the goal and the Secretary of State for India and the Viceroy, having gone round the country and ascertained the views of the public as to the manner in which that policy was to be given effect to, had published the Montagu-Chelmsford Scheme. Great expectations were thereby raised, and when it was said that the Government of India were likely to suggest modifications therein of a somewhat illiberal character, that news had caused considerable irritation. The conclusion of the war has also brought forward the thorny question of the terms on which peace was to be concluded with Turkey, and the Muhammadans in India were apprehensive that those terms would be severe.

4. The above statement describes the factors that were influencing the minds of the people throughout the country, including the Punjab and the other places where these disorders took place.

Special factor in the Punjab.

5. Some of the above factors were more potent in the Punjab than elsewhere. As already observed, the Punjab had supplied by far the largest number of combatants as compared to the other provinces in India ; war-weariness would be more pronounced in the Punjab than in any other province. Similarly, the restrictions on traffic must have been more seriously felt by the producer of the Punjab which every year exports a large quantity of food-stuffs. Lahore, Amritsar, Gujranwala, Wazirabad, Hafizabad, Sangla Chuharkana, Akalgarh, Aminabad, Kasur, Patti, Khem Karan, came under the special income-tax and the increase was very large, running from 100 to 200 per cent. The seizure of wheat stocks under the Defence of India Act to stop speculation and reduce the price of grain to the poor was also naturally disliked by the traders affected thereby. Then the Punjab Government under Sir Michael O'Dwyer had for various reasons come to be regarded by the educated and politically minded classes as opposed to their aspirations. His speech in the Imperial Legislative Council in September 1917,

was regarded as an attack on the educated classes and created considerable resentment. At the next meeting he expressed regret that his speech had hurt people's feelings. During his administration orders had been issued prohibiting politicians like Mrs. Besant and Mr. Tilak from entering the Punjab and reports of certain meetings had been prohibited publication unless they had been censored. He had objected to the Hon'ble Dr. Sapru, the Hon'ble Mr. Banerji and the Hon'ble Pandit Madan Mohan Malaviya being invited to attend the conference that was held at Lahore to support the reforms-proposals of the nineteen members of the Indian Legislative Council. Several newspapers had been prohibited entry into the Punjab; and the Press Act had been put into operation more vigorously there than in any other province. The Hon'ble Mr. Thompson, Chief Secretary to the Punjab Government, said that the late Lieutenant-Governor of the Punjab wanted the atmosphere of the place to be as calm as possible during the war, and that all these measures taken by him in regard to the Press and political agitation must be regarded as war-measures. In referring to these measures, we must not be regarded as attempting in any manner to pronounce judgment as to their merits; we are referring to them only with the object of noting the fact that in consequence of them there was considerable feeling existing in the educated and thinking classes in the Punjab.

Rowlatt Act.

6. On the 18th January, 1919, what are popularly known as the Rowlatt Bills were published and were introduced in the Imperial Legislative Council on the 6th February 1919. The bills evoked almost universal opposition in the country. They were opposed by almost all the Indian members of the Imperial Legislative Council, of all shades of political opinion in the country. It was felt in India that, when she stood steadfastly by the Empire in the War and had thereby proved her right to be treated as an equal member of the Empire, repressive legislation of this character was being hurriedly passed while the Reforms Scheme for instalment of Self-Government had not till then materialised. But the main objection to the legislation was that the Executive were being clothed thereby with considerable powers uncontrolled by the judiciary. When an amendment moved by the Hon'ble Mr. Surendra Nath Banerji for the postponement of the bill to the September session, pointing out that there was no harm in so doing as the Defence of India Act was still in operation, was negatived, considerable feeling of resentment was created. In stating the above facts we must not be regarded as in any manner expressing any opinion on the question

whether the introduction of these measures at this juncture was unwise or with regard to the merits of those measures; it will be outside the scope of our reference to do so. We have stated these circumstances only with the object of taking note of the fact that the introduction of the Rowlatt Bills did create considerable resentment throughout the country. This opposition, shared in as it was by people of all shades of political opinion, was genuine and not a factious or artificial one as was suggested by some witnesses before us. One of the Rowlatt Bills was finally passed in the Legislative Council on the 17th March 1919, and received the assent of the Viceroy soon afterwards. The agitation against the measure increased, and demonstrations of various kinds were made to secure the repeal of the measure. It appears that at any rate in the Punjab there were afloat a considerable number of misrepresentations of the provisions of the Rowlatt Act, but it was not suggested that any known or recognised leaders were responsible for these misrepresentations. Although these misrepresentations were current for a considerable time, Government had not taken any definite step to explain the Act to people at large; it was not until after the HARTAL of April 6th that the Punjab Publicity Board took step to distribute copies of it in large numbers.

"Satyagraha" movement. Civil disobedience

7. While the bill was still before the Legislative Council, Mr. Gandhi joined the agitation against the bills, which thereby received a great accession of strength. On the 1st March 1919, the SATYAGRAHA SABHA was established at Bombay, and it was announced that those taking the SATYAGRAHA vow would civilly disobey the Rowlatt Act and such other laws as a committee of the SABHA may from time to time name. We are in agreement with what is stated in paragraphs 13 to 18 of the chapter on Causes in the Majority Report as regards the SATYAGRAHA movement, its progress and the nature and effect of the doctrine of civil obedience stated by Mr. Gandhi as part of the SATYAGRAHA doctrine. There was a SATYAGRAHA SABHA established at Delhi and there was active propaganda in support of SATYAGRAH but the SATYAGRAHA movement as such does not appear to have made appreciable headway in the Punjab; and we do not think that the disorders that took place there could be attributed to active presentation of the SATYAGRAHA doctrine by organisations working in the province itself.

Was there a rebellion and organised conspiracy?

8. The question that first arises is whether these events were in the nature of a rebellion as commonly understood, that is, a rising for the purpose of turning out the British Government and were the

result of an organised movement for that end. It was stated before us by some officials that these disorders were in their view the result of an organised conspiracy throughout the country to turn out the British Government, and it was said that such organisation was connected with the ferment in Egypt and machinations in Afghanistan. One witness even suggested that it was connected with, if not financed by, the Russo-German Bolshevik organisation. The views were based on inferences from the nature of the occurrences themselves and no evidence in support of them was forthcoming. The Hon'ble Mr. Thompson, Chief Secretary to the Punjab Government, admitted in his examination before us that there was nothing more than conjectural connection between the disturbances in the Punjab and the ferment in Egypt, the machination in Afghanistan or the Bolshevik influences. He did not wish the Committee to draw any inference in this connection from the facts placed before us by him. The following is an extract from the examination of Colonel A. J. O'Brien, Deputy Commissioner, Gujranwalla, regarding his statement that the unrest was organised from outside :—

Q. So according to that, the organisation that you refer to was in the Punjab, outside Gujranwala ?

A. I don't say that. I say that it was certainly outside Gujranwala.

Q. Was it outside of Punjab or inside ?

A. That I cannot tell you.

Q. You cannot say where the organisation was ?

A. No, I have no information.

Q. You do not know whether there was any organisation at all.

A. No.

Q. And then why do you say here "it was organised. . ." when you never knew whether there was an organisation at all or not ?

A. As I said, it was only my assumption. I don't think that the Gujranwala people would have started it off of their own accord, therefore I assumed that it must have come from outside.

Q. You assumed the existence of an organization without any evidence at all ? You never made any enquiries ?

A. It is not for me to take into consideration every individual thing outside my own district.

Q. Colonel, you have made a statement, and surely you must base that statement on some material ?

A. I am like our friend this morning (referring to a non-official witness). I did not expect to be cross-examined.

Q. Therefore you thought it did not matter if you made that statement and it would not be challenged ?

A. I was asked to give my opinion by the Punjab Government and I gave it.

No organisation for bringing about the disturbances.

9. On the evidence before us we are of opinion that there was no rebellion in the sense we have mentioned nor any organisation for

that purpose ; further that there was no organisation even for bringing about the disturbances and the atrocities which were committed by the mobs seized by the frenzy of the moment. The Punjab Government in their case presented to us, take the view that the disturbances cannot be rightly attributed to an organisation for that purpose but must be referred mainly to local causes. They say "In many cases the HARTAL of the 6th April owed very little to a direct organisation of public men."

"The movement against the Act working up to the general demonstration of the 6th was not of itself of an exceptional character. There was not, as far as can be ascertained, any general intention of carrying it beyond political agitation and passive resistance." "For the disturbances that ensued we must mainly look to local causes." Speaking about Amritsar where the worst disorders took place, the Punjab Government say "that certain local factors resulted in turning what started as a protest in force against the deportation of Drs. Kichlew and Satyapal into mob-violence marked by murder, pillage and incendiarism."

At Lahore, they say, the disturbances followed the reported arrest of Mr. Gandhi and the news of the outrages at Amritsar. Speaking about the town of Gujranwala, they say "Actual disorder was due rather to the desire to emulate the outrages of the mob at Lahore and Amritsar rather than to any long premeditated organisation for violent ends." As regards the disturbances in various places in the Gujranwala district, Mr. Bosworth Smith, Joint Deputy Commissioner, Sheikhupura, says in his written statement, "Crowds flocked down to meet every train that passed through and the wildest rumours were afloat. The outbreak was immediately proceeded by the BAISAKHI festival. A large number of Sikhs and others went to Amritsar. Some of them were shot or wounded there, and the wildest tales came back of Government oppression, which further inflamed the population, particularly against Europeans." Of Kassur they say that "it is safe to exclude any suggestion that disorders were long premeditated or due to an organisation to that end." As regards Gujrat they say "the record of the disturbances in this district discloses no evidence of organisation. Such trouble as occurred was confined practically to two days, and with the exception of the deliberate derailment at Malakwal, reveals little concerted action to cause a serious breach of peace ..... ; but the nature of the course taken by the demonstration does not suggest that there was at any time ever any danger of outrages so grave as those which occurred at Amritsar and Gujranwala."

10. It is also beyond doubt that the principles of SATYAGRAHA enunciated by Mr. Gandhi inculcate the doctrine of no violence and

that the SATYAGRAHA vow enjoins abstention from violence. Although the effect on the masses of the propaganda of civil disobedience connected with SATYAGRAHA was likely to create an atmosphere favourable to violence, it cannot be said that the promoters of the SATYAGRAHA movement themselves intended that violence should result. The official evidence is unanimous in saying that the local leaders at Delhi, including SATYAGRAHIS, were taken by surprise at the actual violence that occurred and did their best to assist the authorities in the restoration of law and order. Jiwanlal, Inspector, Criminal Investigation Department, has the following record in his diary "I personally called on Dr. Kitchlew as the follower of his views. I am not known to him in any capacity. It was necessary to sign a form regarding passive resistance and the manner in which it was to be resorted to would be according to the instructions of Mr. Gandhi to be received later on. He gave me a form which I attach herewith. He advised that no violence or force should be used."

Result of official investigation.

11. Mr. Orde, Superintendent of Police, Delhi, was specially charged to make enquiries about the Delhi disturbances with the particular object of bringing to light the extent and methods of organisation believed to be responsible for the disturbances and its connection, if any, with similar outbreak in the other parts of the country. The conclusion, arrived at after full investigation, is that the rioting at Delhi was not the outcome of a conspiracy against the British RAJ but the natural consequence of economic hardships and political unrest. He further says that it was never intended by the members of the SATYAGRAHA SABHA or others that their activities should result in violence. He adds that he could find no connection between the Delhi disturbances and disturbances in other places. Similarly, Mr. Guider, who was specially deputed to conduct an investigation into the Ahmedabad disturbances, said that he could find no organisation behind those disturbances, and that there was no connection between the Ahmedabad disorders and the disturbances in other places. Mr. Tomkins, Deputy Inspector-General of Police, Punjab, who, it appears, was placed on special duty to explore the organisation underlying the disturbances came to the conclusion "that behind and beneath the disturbances there was no organisation such as could not be seen by any one following political developments in India during the last few years." In his view, the disturbances were more or less spontaneous, bred by political unrest. The marked differences as regards certain essential features in the disturbances at different places also negative any common design. While in Amritsar and Ahmedabad the mobs,

when they lost self-control and started on their nefarious work, brutally assaulted and killed Europeans and destroyed Government and public property, it was quite otherwise in Lahore and Delhi. During the disturbed time of the 10th of April and the following days, there was no determined attempt at Lahore to molest Europeans or attack banks or public buildings. Similarly, in Delhi, throughout the period of the disturbances from the 30 March to the 17th April, there was never any attempt made to damage Government or public buildings or any attack on Europeans as such.

12. If there was no organised or concerted attempt to bring about these disorders it follows that there was no organisation for a rebellion, and we think that it is not a correct description of these disturbances to call them rebellion in the sense we have indicated above. The first circumstance that invites attention in this connection is that in no place were the mobs provided with any fire-arms or swords or other weapons of that character. The evidence further shows that at no time was any attempt made by the crowds to obtain arms by raiding the houses of license holders or the ammunition shops in the disturbed areas. Lieutenant-Colonel Johnson told us that there were 1,700 license holders in Lahore civil area. The question was put to him "Am I right in supposing that if the people of these provinces had been bent on rebellion that (possessing arms) would have been the first thing they would have done?" His answer was "I say that is my opinion. I think you are right." In several cases in the beginning of the disturbances, they had not come armed even with LATHIS or sticks. When this aspect was put to some official witnesses, they said that it was a 'ridiculous' rebellion. At Amritsar when the crowd first started to go to the Deputy Commissioner's bungalow they were bareheaded and barefooted and had no sticks; and it was after they had been turned back by the firing that some of them armed themselves with sticks and pieces of wood from a shop near the railway station. This appears from the evidences of Mr Miles Irving, Jiwanlal and Dr. Fauq. Moreover, no serious attempt appears to have been made to get the rural population to join in the disturbances. The official evidence is unanimous that the rural population, as a whole, had nothing to do with these disturbances. Lieutenant-Colonel Smithers, who, in charge of a mobile column, visited various places in the district of Lahore, says in his report to General Beynon: "My impression as regards the loyalty of the district was that outside the larger towns the country folk seemed contented. They were at the time busy in cutting their crops and did not appear interested in anything else. Most outlying villages had not even

heard of the Rowlatt Bill. I never heard Lahore mentioned in the district I traversed except that they had heard of riots there."

An examination of the progress of events in Amritsar and other places shows that the anti-Government or anti-British form that the disturbances took was a sudden development at the time. The Punjab Government testify to the fact that on the 30th March and 6th April when the HARTAL took place and on the 9th April which was the RAM NAUMI day there was no hostility or even discourtesy shown at Amritsar to Europeans who moved freely through the crowd. On the other hand, when Mr. Miles Irving accidentally came across the RAM NAUMI procession, a special mark of respect was shown to him. Further, when, on the news of the deportation of Drs. Kitchlew and Satyapal, the crowd assembled and tried to proceed to the Deputy Commissioner, they passed the banks and came across some Europeans but did not molest them. And the deplorable events in the city followed and did not precede the firing on the crowd at the Hall Gate Bridge. We mention this latter circumstance not as affording any excuse, much less a justification, for the atrocities committed by the mob; but only as showing that the anti-Government and anti-British outburst was not previously designed, but was the result of the frenzy with which the crowds became seized at the moment. Mr. Miles Irving the Deputy Commissioner of Amritsar, said "I cannot point to any fact existing before the 10th April to suggest that in the beginning of April, there was any plot on the part of any stratum of society in Amritsar to encourage violence against Europeans or upset the Local Government by violence."

Q. Would it be consistent with the facts as you know them to regard the outbreak of the 10th of April as the case of protest against the deportation of Drs. Satyapal and Kitchlew which spontaneously developed into mob violence marked by murder and incendiarism?

A. I think that is a very good account. It spontaneously developed, it flared up in a moment. I do not think people went out with that design.

It is not incorrect to say that at Gujranwala, Kasur and other places the violent acts committed by the mob were more or less the result of a sudden determination to resort to such acts. In the town of Lahore itself the actual happenings in the way of destruction of life and property were of so trivial a character that it would be a misnomer to describe them as acts of rebellion. In fact, there was no damage done to any property, Government or private, and there was no attempt to attack Europeans as such.

13. There is no doubt that in some places there were serious riots and the mobs committed destruction of life and property in consequence of and as a mark of resentment, however unjustifiable, against Government and their conduct richly deserves the severest

condemnation ; but their intention was not to put an end to British Government nor were the means adopted by them calculated to effect that. Their acts may amount in law to waging war under the Penal Code, but it was not rebellion in the sense in which it is ordinarily understood.

Punjab Before the Disturbances.

14. In this connection, it may be useful to refer to the behaviour of the people of the Punjab for some years preceding these events, in order to realize the improbability of their entertaining the idea of rebellion against the British Government. It the year 1914-15, soon after the war began, a considerable number of emigrants came to the Central Punjab from the United States, Canada and the Far East. They were infected with revolutionary ideas and were in deep plot, encouraged and helped by Germany. They had bomb factories both at Lahore and Amiritsar, and they committed a large number of outrages, murdered officials and wrecked trains and communications. They printed and distributed considerable revolutionary literature and their declared object was GHADR *i.e.*, revolution. At that time the country was depleted of its Indian forces and it was an anxious time. On this emergency, the people of the Punjab, including the educated classes, actively ranged themselves on the side of law and order and those revolutionaries were put down and a large number of them were brought to justice. About 58 people were hanged and one hundred transported. In January and February 1915 organised disturbances on a large scale took place in South-Western Punjab, and a considerable number of murder and dacoities involving much destruction of property were perpetrated. The peasants were the aggressors in this disorder and some of them said that the British Government had come to an end ; that they owed allegiance to the German Kaiser and the Amir of Afghanistan. On this occasion, too, an overwhelming majority of people remained loyal and almost all the respectable people helped the Government very much to restore order. The disorder was put down and a large number of offenders, about four thousand, were arrested and severely punished by capital sentences and sentences of transportation for life being passed on them. We have stated the above facts, as deposed to us both by Sir Michael O'Dwyer and Mr. Thompson and as mentioned in the Government administration reports. On both these occasions the people of the Punjab, if they had a mind to rebel against the Government, had opportunities thrown in their way for this purpose. Sir Michael O'Dwyer in his speech in September 1917 in the Indian Legislative Council said as follows :—"Hon'ble members are doubtless familiar

with the serious dangers which menaced the security of the provinces during the first two years of the war, the GHADR conspiracy and other real and covert movements, engineered by the King's enemies within or without India, with the object of subvertment, but, perhaps they are less familiar with the action, the prompt, vigorous and decisive action taken by the people of the Punjab, Muhammadans, Sikhs and Hindus, to range themselves on the side of law and order and to stamp out sedition and anarchy. There was no hesitation, no sitting on the fence, no mawkish sympathy with red-handed crime, no insincere apology for so-called misguided youths pursuing noble ideas, no subtle distinction between evolutionary and revolutionary patriotism." Further, the province, in the words of the Punjab Government, "made a response unequalled by any other part of India to the appeal for recruits and subscribed so freely to the war Loans that the province ranked third in the list of contributors." Sir Michael O'Dwyer, in a speech made in the Punjab Legislative Council in April, 1917, said that he had every reason to rely on the people's loyalty and proverbial common sense, and acknowledged that "since the war began the people of the province, so far from doing anything to embarrass the Government, have rallied enthusiastically to its support." Speaking of the press he said that it had on the whole maintained a correct, loyal and helpful attitude. Referring to the various political and other associations in the province, he said that as a rule they had conducted their discussions and propaganda "with a sobriety and restraint befitting the anxious times." We think it extremely improbable that after the successful termination of the war, out of which Britain emerged more powerful than ever before, the people of the Punjab with their practical common sense would so suddenly abandon their sturdy loyalty that had actively asserted itself during the dark days of the war and think of starting a rebellion.

It was suggested that military efficiency of the British army in India was in the beginning of the year 1919 much less than that of the British army in 1914, 1915 or 1916, and General Hudson explained this to us. This is quite true but it is too much to assume that the people of the Punjab understood or were influenced by this factor in starting a "rebellion." It may be useful to see what the district officials and others in close touch with the population have to say in this connection.

15. Mr. Kitchin, the Commissioner of Lahore and Amritsar said that there was no anti-British feeling before the 10th of April and Mr. Miles Irving expressed the same view. Mr. Bosworth-Smith, Deputy Commissioner in charge of Sheikupura Sub-Division said "There was no anti-British or anti-European feelling to any

appreciable extent with the exception of the GHADR movement which was exotic ; the indigenous population was neither anti-British nor anti-European all these years." Lieutenant-Colonel O'Brien said that there was nothing to complain of before the 6th of April and that the people looked perfectly loyal ; he says he was told that some people read outside newspapers of an objectionable character. Captain Godfrey, who had worked as a missionary for many years in the Gujrat district and has, as he said, opportunities of intimately knowing the people, deposed that people were quiet, loyal and law-abiding and showed no anti-British feeling. The happenings of the 14th came as a surprise. Lala Khan Chand, Tahsildar of Kasur, said that he did not observe any anti-Government or anti-British feeling amongst the people of Kasur, nor any seditious movement. Lieutenant-Colonel Smith, I.M.S., of Amritsar, said that the people were loyal and that he did not see signs of unrest or disloyalty. He said that there was political agitation going on from the beginning of 1919 but that he did not consider it a disquieting sign.

16. While there was no organised or concerted action to bring about the disorders and those disorders themselves were not in the nature of a rebellion, that is, done with the intention to overthrow the British Government, the Punjab Government and its responsible officials and the military authorities had from the start persuaded themselves that they were the result of an organised and preconcerted rebellion ; and they began to deal with the situation on the footing of there being a state of war, the town in which these disorders had happened as being in rebellion, and the whole population of these towns being rebels. And it is indeed on that footing that at any rate some of the measures taken by them can be explained. When the General Officer Commanding the 16th (Lahore) Division was informed about the disturbances at Delhi and thereupon took precautions about possible disorders at Lahore, the entry is made in a book headed a " War Diary " ; and all subsequent events have been recorded in that book. No such title seems to have been adopted by the military authorities of Delhi and Ahmedabad although the events at the latter place were as bad as, if not worse than, the incident at Amritsar. When intimation was first received at the Government House, Lahore, at 12-15 (noon) on the 10th April about Amritsar, the entry recording it was made in a book, headed the " Government House War Diary " and subsequent events were entered therein. A similar ' War Diary ' seems to have been kept for Lahore beginning from the 10th April. Similar books seem to have also been kept for Kasur, Gujranwala and other places. Sir Michael O'Dyer stated to us that he did not know that such Diaries

were kept, and said that he would certainly not have approved of the title. In any event, it shows to a certain extent how some of those surrounding Sir Michael O'Dyer looked at the matter. Mr. Kitchin, the Commissioner of Lahore, said that in April he had formed the opinion that there was a revolutionary movement behind the disturbances, though he had since modified his opinion. The same opinion was evidently held by General Beynon, Lieutenant-Colonel O'Brien, Mr. Bosworth Smith, Mr. Miles Irving and other officials. Sir Michael O'Dwyer himself in his written statement before us gave expression to the view that there was a widespread organisation. In his oral examination, he said as follows :—

Q. In your statement at page 10 you indicate the view that there was an organisation—a widespread organisation—on the 5th April. Your suggestion is that the whole country was involved. Do you still adhere to that or not ?

A. There were similar and simultaneous outbreak in various parts of India as far apart as Bombay, Ahmedabad and Calcutta.

Q. Here the suggestion is that these disturbances at Ahmedabad and Calcutta and Bombay were part of one organisation. Do you adhere to that suggestion or do you wish to modify it ?

A. I still think there were certain people connected with those parts who were behind this organisation. I will not say it for certainty, but I think there were certain phases which showed that unless there was an organised movement all over the country and there had been some organisation, all this could not have occurred simultaneously. But I have no positive proof of this.

Q. Where was this central organisation ?

A. I have no proofs of it. But I am strongly inclined to believe that it did exist. There was some organisation.

Q. There was some central organisation directing these ? Certain phases of them. There was some common agency which worked out certain phases of the occurrences that took place ?

A. Yes ; that is what I believe.

Q. You have no evidence in support of this ?

A. I can not give it. As I say, I left the province directly after those disorders were put down and did not have the opportunity of investigating the matter further.

Establishment of Martial Law

1. On the 13th April the Punjab Government applied by wireless to the Goverment of India to establsh martial law in the Districts of Amritsar and Lahore and to direct trial of offenders under Regulation X of 1804. The Government of India on the same date assented to the establishment of martial law "during the existence of open rebellion against the authority of Government." The message was received at Lahore the same day; and the proclamation establishing martial law in Lahore and Amritsar was issued on the 15th; it was extended to Gujranwala on the 16th, to Gujrat on the 19th, and to Lyallpur on the 24th April. The question then arises whether, under the circumstances existing on the 13th April, when the Punjab Government asked for the introduction of martial law in Lahore and Amritsar districts, such introduction was necessary.

[The Indian Commissioners here enter into the legal aspect of the question, explaining the conception of Martial Law in English Jurisprudence, and quoting Dicey in support. They then explain the scope of Indian Ordinances and Indian Law on the subject. As these are of technical nature and of no interest to the lay public, we have omitted the paragraphs—Ed]

State of things at Amritsar.

5. Taking Amritsar, where the disturbances first took place and were of the worst character, it appears that the outburst of the 10th April subsided in a few hours, there was no repetition of any serious incident after rwards either on that date or on subsequent dates. And even with regard to the events of the 10th, serious though they were, it must be remembered that if the officer in charge of 75 armed police at the Kotwali, instead of showing woeful inaction, had done his duty, the worst crimes, *viz.*, the murders of the officers aud the burning of the National Bank buildings which took place within sight of the Kotwali, would in all probability have been prevented. On the 10th there were available 100 armed police, 100 unarmed police, there were soldiers on the post and 260 Gurkhas were detrained and were armed from the armoury in the Fort. Reinforcements arrived from Lahore at 10-30 P.M. on the 10th, consisting of 40 rifles, and just before midnight the forces entered the city and brought the refugees from the Kotwali. Major MacDoland's report shows that the streets were deserted and there were no crowds about. Captain Massey in his report records; "The situation was quiet." 300 rifles arrived from Jullundur at 5 A. M. on the 11th. In the early morning of the 11th, Captain Massey records:—

"Various leading men of various denominations in the city called upon the Officer Commanding to obtain concessions for the purpose of making arrangements to bury their dead." The Deputy Commissioner decided that no large demonstrations would be allowed and these orders of the Deputy Commissioner were obeyed. Mr. Miles Irving says :—"The bodies were disposed of quietly according to our orders and there was no big procession." The police began their investigations on the 11th and arrests were made on that day. The fact that people were taking orders from the Deputy Commissioner and obeying them and the police were making investigations shows that the city was not out of the control of the authorities. This was long before General Dyer's arrival late that night. The war diary kept by Captain Briggs records under date 11th April, at 7-00 in the morning, "12 arrests made this morning" and it appears from the same record that several important arrests including Bugga and Dinanath were made on the 12th; and a few arrests were made also on the 13th April. The same diary records under date the 11th and 12th, that it was "all quiet" at Amritsar. On the 12th of April considerable crowds came from the city to the shrines outside the Sultanwind Gate and Mr. Miles Irving says that they went back in a peaceful manner and there was no assault or stone throwing at the military that were there. On the 12th the authorities were able to spare a small force and sent it to Tarn Taran. On the 12th Mr. Miles Irving issued notices prohibiting processions and gatherings. These notices were evidently printed in the city and were distributed by the civil authorities. Ashraf Khan, the city police inspector, was moving about the city. People from the city were coming to the officials from time to time. On the 11th, 12th and 13th the ordinary police were in the city, the night beat had been removed. On the 13th the Seditious Meetings Act was extended to Amritsar. On that day took place the shooting by General Dyer of the peeple assembled at the Jallianwala Bagh. The Punjab Goverpment and all the official witnesses have claimed that that act of General Dyer crushed the rebellion in the whole province. Mr. Miles Irving says that all trouble ceased after that in Amritsar and throughout the district and that the history of the rising henceforward is the record of progress of bringing offenders to justice. If that is true the need for the introduction of martial law had apparently ceased. On the 14th April, a meeting of the influential citizens of the city was held at which General Dyer and the Deputy Commissioner were pressnt and it was arranged that shops should be opened. There was no HARTIL on the 15th. On the 16th the Deputy Commissioner held a Durbar at Tarn Taran and similar durbars were held at other towns. Under date 16th April Captain

Briggs records "situation from the 15th April 1919 well in hand. No crimes or damages to report in Amritsar district," and on subsequent days right up to the end of April is to be found the entry "all quiet." General Dyer in his report to the General Staff, 16th (Indian) Division, speaking of the events of the 13th April records that the city very quickly assumed normal conditions and was soon the pattern of law and order.

During all these days, according to Lieutenant-Colonel Henry Smith, people from the city were visiting the hospitals ; and he says in his evidence that on the 14th all people came and offered help.

On the 21st, 24th and 28th April, General Dyer held durbars at various places and he says he found everybody loyal. With regard to the attack on the Cheharta station which took place on the 10th, it was mostly with a view to loot as was the case also at Tarn Taran. Mr. Miles Irving says that all that happened was that the people smashed the station windows and looted the contents of four wagons of a goods train.

It is said that there were apprehensions about the villagers coming to loot. It is not established that any villagers in fact made any attempt to attack Amritsar for the purpose of looting.

It was suggested that the people of Amritsar were organising themselves, the implication being that they were doing this in order to defy the authorities. Mr. Miles Irving, however, told us that the inhabitants were trying to protect themselves against possible looting. It appears that, in consequence of the police night beat having been withdrawn, volunteers with bamboo sticks were organised on the 11th to watch the streets at night to prevent thefts being committed. At Tarn Taran a crowd had assembled with the object of looting the treasury but was dispersed by a few constables.

State of things at Lahore.

6. At Lahore there were no serious disturbances as already observed, or any destruction of life or property. Nothing new happened there after the 12th April. On the 10th in the evening there was a garden party in the Lawrence Gardens given by Sir Michael O'Dwyer, when the people from the town atteded. On the 12th of April, Sir Michael O'Dwyer was entertained at dinner by Sir Zulfiqar Ali Khan at which several leading people were present. On the 14th a big durbar was held by Sir Michael O'Dwyer when people from various districts attended.

On the 11th of April the Deputy Commissioner and Superintendent of Police had two conferences with leading men of the city at the telegraph office with regard to the HARTAL and the question of the burrying of the dead. On the 11th there was a meeting at

Government House when the Hon'ble Mr. Shafi, Raja Narendra Nath and other prominent people were present to consider the matter of the HARTAL. On the 12th there were two meetings—one at the Hon'ble Mr. Shafi's house and another at the Town Hall where the Deputy Commissioner was present. On the 12th Lieutenant-Colonel Johnson marched through the city and posted pickets. On the 13th there was another meeting at the Town Hall in connection with the HARTAL where the Deputy Commissioner was present. On the 14th the authorities arrested and deported Lala Har Kishan Lal and Rambhuj Dutt and Duni Chand. Rai Bahadur Bukhsi Sohan Lal said that by the efforts of himself and others some shops were opened on the 14th and there was further improvement on the 15th and that even without martial law they would have succeeded in ending the HARTAL. Mr. Ferguson, the Registrar of the High Court, who gave evidence, said that the High Court and the other courts went on working as usual during the whole time and that there was no period in which they did not work in consequence of the riots. In Lahore the military strength on the 15th of April was 406 British troops, 250 Indian Defence Force (European section), 381 Indian troops, 460 armed police, 800 unarmed police and 3 armoured cars. By the 20th more British troops came, making an aggregate of more than 1,000.

State of things at Kasur.

7. At Kasur, after the serious occurrences on the 12th, nothing further happened afterwards. Lieutenant Colonel McRae arrived in Kasur with troops from Ferozepore at 2 P.M., on the 12th of April. Investigations were immediately commenced. Some arrests were made that very day. The evidence shows that the mob that committed violence on the station on the 12th of April consisted mainly of sweepers, skin-dyers and low class people.

At Patti nothing further happened after the 12th. The town consists chiefly of Moguls, a considerable number of whom are employed in the Army and are throughout loyal. There were no respectable persons among the rioters.

At Khem Karan an attempt was made by hooligans to loot the station on the 12th but they were dispersed by the cultivators in the fields who were called in assistance by the Police Sub-Inspector, nothing further happened after that. The courts assumed their ordinary business from the 12th April and practically things were normal after that date.

State of things at Gujranwala.

At Gujranwala, after the occurrence of the 14th April, things were quiet. The aeroplanes operated in the afternoon and

troops arrived at 9 P. M. Attacks on railway stations and telegraph lines took place mostly from the 14th and 15th at various places in the district of Gujranwala including Sheikupura sub-division. These disorders were the result of the sensational reports about the Jallianwala Bagh incident and other rumours about the happenings at Amritsar, *e.g.*, the damaging of the golden temple which threw the people into a state of excitement. Everything was quiet in a short time. There was no difficulty about arresting the offenders, and except at Chuharkhana the local police were able to deal with the situation and restore quiet.

A large number of arrests were made on the 15th April.

State of things at Gujrat.

9. Turning to Gujrat where martial law was notified by the Punjab Government on the 19th April, it having been applied for on the 18th, the Deputy Commissioner did not act upon it at once. On getting the order he wired as follows :—"Surprised to be informed by Government that martial law has been extended to Gujrat. The district is quiet. General Brigade Jhelum had received no order and agrees with me that martial law is not necessary." The following entries in the war diaries of the Jhelum and Rawalpindi sections of the 2nd Division respectively are instructive ; "20th April. Deputy Commissioner, Gujrat informed Jhelum martial law had been ordered for Gujrat. Neither General Officer Commanding nor Deputy Commissioner approve and the Deputy Commissioner wired accordingly to the Punjab Government." "22nd April. The Deputy Commissioner received orders that martial law had been extended to the Gujrat district. It was not proclaimed as the Deputy Commissioner thought it must be a mistake and meant for the Gujrat district near Bombay. The Deputy Commissioner is quite satisfied with the situation at the present moment and does not expect more outbreaks."

The Deputy Commissioner in charge of the district considered the state of his district so quiet and peaceful that he considered the introduction of martial law in his district to be inconceivable and he thought that Gujrat meant the Gujrat in the Bombay Presidency. And, owing to this view of his that there was misapprehension in sending the orders to him, he actually delayed giving effect to them. Even after its introduction the Deputy Commissioner wired on the 22nd of April to the Punjab Government urging its suspension. In his evidence before us the Deputy Commissioner says that in the attitude that he took up as narrated above he had confined his attention only to the state of his district and had not considered the general

situation and that now doing so he was of opinion that the introduction of martial law was a wise precaution."

Q. Then in your opinion was it advisable that there should be martial law?
A. It was not necessary for the quelling of riots or disturbances. It was a precaution against further troubles; it was a very wise precaution.

Sir Michael O'Dwyer in his evidence before us admitted that the district and all those places were quiet. Indeed he said that all villages everywhere were absolutely quiet and that it was only along the railway line that the disorder manifested itself.

State of things at Lyallpur.

10. In the district of Lyallpur martial law was proclaimed on the 24th of April, having been applied for on the 21st and sanctioned on the 22nd April. The district was absolutely quiet at the time. Sir Michael O'Dwyer referred to the burning of a stack of *busa*. This happened after the introduction of martial law and it was not established that it was the work of the rioters and on that ground it appears that the claim of the railway for compensation was disallowed. Mr. Smith, Superintendent of Police, says that the introduction of martial law was desirable but not essential. There were only petty disturbances and they had all ceased by the 19th of April.

11. The above facts show that so far as the actual state of the country was concerned there was no necessity for the introduction of martial law. The disturbances had been quelled, no doubt, by calling in the aid of the military, and on the 13th when the Punjab Government moved the Government of India and on the 15th when martial law was actually proclaimed at Lahore and Amritsar and later at other places, there were no actual disturbances at those places which required such a step to be taken. The military by whose aid peace and order had been restored were available if any emergency arose. The authority of Government had been vindicated and the people had realized that any disturbances of the character indulged in could be effectively put down by the strong arm of the Government.

Mr. Kitchin, the Commissioner of Lahore, who as such was in charge of the Districts of Amritsar, Lahore and Gujranwala says in his examination as follows:—

Q. If there were no other considerations the civil authority could soon after the 11th that is, on the 12th, 13th or 14th as the case may be, have taken back control and carried on with such aid as might have been necessary from the military?
A. Yes, in individual places.
Q. According to your statement in almost all places
A. Yes.

Q. But your view is that martial law was wanted not for the purpose of getting control but for the purpose of what you describe as preventing the spread of infection ?

A. Yes.

Q. And that is your only justification for martial law being declared ?

A. That was the immediate reason.

Q. And also I take it the second important reason from your point of view was to provide for the speedy disposal of the cases of persons who had already been arrested between the 10th and 13th ?

A. That is a reason which weighed with me, I have no reason to suppose it weighed with any one else.

Q. In your view those were the two main reasons for the declaration of martial law, preventing the spread of infection and finding some speedy method of disposing of the cases of persons already arrested ?

A. Yes.

The Government had at their command the emergency powers under the Defence of India Act and the Seditious Meetings Act and there would not have been the least difficulty in obtaining immediate sanction for any particular measure necessary to be taken under them. The military forces were standing by, ready to arrest if any sudden emergency arose. All that was necessary to be done in order to quell the disturbances had already been done by the civil authorities and all measures of immediate necessity like the Curfew order and the like had been taken before the introduction of martial law.

Similar orders as has been pointed out were issued at Ahmedabad without introducing martial law. We think that almost all of the orders issued from time to time by the military administrator and deemed necessary were possible to be issued under existing emergency legislation. A considerable number of those orders however were, as has been hereafter pointed out, unnecessary, unwise and uncalled for, and the population would have been saved the hardship and bitterness caused by them if the civil administration had not been superseded in the manner it was and if the military administration with all its attendant rigour had not been inaugurated.

Martial law, it thus appears was invoked not for the purpose of quelling actual disturbances or riots but for the purpose of preventing the recrudescence of such disturbances or, as Mr. Kitchin puts it, "to prevent the spread of infection" and for the purpose of creating a machinery for the speedy trial of the large number of people that had been arrested and of those whose arrests were contemplated. The idea of punishing the population of the places where these disturbances had occurred, by giving them a taste of martial law, was also not quite absent from the minds of the authorities. The Punjab Government, in justifying the introduction of martial law, say in their case as follows :—"In order to re-establish order, to

safeguard communications, to effect that change of *morale* which was essential to the restoration of civil orders, a new type of administration was for a time required." Speaking of Amritsar they say "martial law was established in the district with effect from the 15th April. The actual disturbances were over, but the proclamation afforded an effective and speedy means of restoring normal conditions. Nor is it possible that, had the civil authorities been confined to the ordinary resources of the criminal law, they would have been able to deal as quickly and as effectively with the investigation into and the disposal of cases arising out of the many outrages committed on the 10th April." In speaking about Kasur, they say, "it is clear that the administration of martial law had a useful disciplinary effect." In referring to Lyallpur, they say, "the measure constituted a salutary but not a severe discipline in restoring normal conditions." They further say that "the proclamation of martial law was probably the most direct and efficacious method of dispelling the unrest."

About Gujrat they say that "the justification for the introduction of martial law lay in preventing the recrudescences of interferring with the communications."

Mr. Thomson in his examination says as follows :—

Q. What you expected to do by martial law was speedy and summary trials That was the particular thing that martial law effected ?

A. That was one great thing that it effected.

Q. That was the great object that had to be achieved in your mind in asking for martial law ?

A. It was one great object.

Thus the main objects of the introduction of martial law were (1) preventive, (2) securing speedy trials and punishment of persons arrested and to be arrested and (3) punitive. We think that the introduction of martial law merely as a preventive measure was not justified. In fact there was not much fear of the recrudescence of the disturbances which were short-lived and the situation was well in hand and was capable of being dealt with without taking the extreme step of introducing martial law. The speedy trial and punishment of offenders could have, if thought desirable, been secured by other means and cannot be sufficient justification for introducing martial law. It must be remembered what the speedy trial of accused person necessarily meant. Mr. Rehill, the Superintendent of Police, admits that the work of prosecution and securing convictions was greatly simplified by the lower standard of evidence that was required by the military courts. The same idea underlies what the Deputy Commissioner of Lyallpur said in his letter to the Chief Secretary to the Punjab Government when in

the end of May it was proposed to end martial law there with the result that the cases pending for trial before summary courts would have been tried by the ordinary courts. He said "it would be a disaster if any of the cases had to be tried as ordinary cases." To suggest that martial law may be introduced as a punitive measure is, on the face of it, indefensible. In dealing with the report and the findings of the Royal Commission that was appointed to enquire into the disturbances and the measures taken in the course of their suppression by the Governor of Jamaica, His Majesty's Government in their despatch said as follows :—"**Future good government is not the object of martial law. Example and punishment are not its objects** ; its severities can only be justified when and so far as they are absolutely necessary for the immediate re-establishment of public safety." They expressed the view that the continuance of the martial law beyond the period of immediate necessity for the restoration of public safety constituted a grave and unjustifiable interference with "the equal constitutional privileges by which the security of life and property is provided for."

Safety of Communications.

12. Coming to one part of the preventive aspect of martial law, *viz.*, safeguarding of the communications, (the report says :—) While the attacks on communications look formidable by their mere numbers, some of them were of a very trivial character. No doubt there had been the cutting of telegraph wires and the burning of railway stations : but the result of all this in crippling the means of communications was not as great as at first sight it might appear. The Agent of the North-Western Railway in an appendix to his report dated the 2nd July 1919 sums up the situation as follows :—"The effect of the disturbance was to paralyse the railway as a commercial system for the period say 10th to 21st April ; as an instrument of Government administration for transport the railway was not paralysed. The outbreak in that respect signally failed. Moreover, soon after the disorders first broke out, a scheme of guarding the railway line by village patrol called the THIKRI PEHRA was worked out on the 13th April and was put into operation. It may be mentioned that the institution of such village patrols can be made under Act VIII of 1918. Sir Michael O'Dwyer says that this patrol system was in working order at the time martial law was introduced there. The evidence is unanimous that the villagers remained steadfastly loyal and the work done by them in guarding the railways was admirable. General Beynon in his report says that :—

"Arrangements were also made by the local Government for villages to find five men per mile for the protection of railways in their area. It should be

noted that there were no more cases of damage to railways in this area after this measure had been put into force. These measures were completed by the 18th April."

Sir Michael O'Dwyer said in his evidence before us "It would have served our purpose in the beginning if we imposed martial law on railway areas running through the Punjab in districts like Gujrat. The difficulty arose in connection with railway jurisdiction as in many cases the line run through Native States." It has not been made clear to us what the actual difficulty was but it was one capable of being removed; for at a later period martial law was limited only to the railways.

Nine reasons of Sir Michael O'Dwyer

(1) and (2). Reduced Mflitary efficiency of troops.

13. Turning to the nine reasons given by Sir Michael O'Dwyer in his evidence before us, the first two relate to the reduced military efficiency of troops, both European and Indian, then in the province; but that circumstance cannot in our opinion be a reason for the introduction of martial law, if the actual state of the district in which it was introduced was not of such a character as to invite its application. It must also be remembered that except at Amritsar the disturbances were quelled by the police force; the troops had not to fire at any place except at Amritsar. It is also beyond doubt that at all places a handful of armed men were able to disperse the rioters. The arrival of the troops at various places was quite sufficient to stop any recrudescence. However reduced the military efficiency of the troops might have been they were amply sufficient to deal with unarmed mobs and control the situation. The argument that with martial law you are in a stronger position to preserve order with 500 soldiers than you are with 2,000 soldiers without martial law is, we think, overdone.

(3) Attempts to seduce troops.

The third reason, *viz.*, the attempts to seduce troops of their loyalty is not an effective reason. It was stated to us especially by General Hudson that there was no special significance about these attempts and that they were of the same character as normally occur. In reply to a question by the President, General Hudson stated that "as far as organised attempts (to seduce the troops) are concerned, I do not think there was any." The following is his further examination on the point:—

Q. With regard to the attempts to tamper with the Indian troops, I understood you to say that there was no organised or serious attempt in that way at all?

A. I do not think so.

Q. I mean that such cases as you had were always happening all these years?

A. I should certainly say it was above the normal, but on the other hand, when you are looking out for stray cases, you will always find them, and we were on the look-out then.

(4) Presence of demobilized men.

The fourth circumstance relied upon by Sir Michael O'Dwyer was that there were in the Punjab some 100 to 150,000 demobilized men, and if they had joined the mob it would have aggravated the disorders. The fact is that at no place did these people display any desire to take a hand in the disorders; and the mere possibility of these joining at some future period cannot be regarded as a valid reason for the introduction of martial law. We must observe that the point taken up by Sir Michael O'Dwyer with regard to these demobilized men is somewhat inconsistent. On the one hand he claims that throughout they behaved well and were a source of strength in maintaining order; and on the other hand their existence is relied on as an element of danger sufficient to justify the introduction of martial law.

(5) The Sikh immigrants.

The fifth circumstance given by Sir Michael O'Dwyer that the Sikh imigrants who at one time had been under the influence of the *Ghadr* movement and been released from detention might participate in the disorders. As early as April 1917, Sir Michael O'Dwyer in his speech in the Legislative Council, speaking about these immigrants, had said as follows :—

"In a great majority of cases the pernicious teachings had produced no effect and in 6,000 cases no special action is taken by the Government. In about 6,000 cases it was found desirable on the advice of the local Sikh committee to restrict them to their villages, and in some cases security was also taken. Our leniency was sometime abused as a score or more defied our orders and took part in the revolutionary movement two years ago. The majority had settled down peaceably and acting on the recommendations of the Sikh committee who have been of such a help to us, restriction orders are steadily being commuted." The existence in the Punjab of these 1,600 Sikhs who had settled down as early as 1916 and had given no indication of their taking any part in any disorders cannot in our opinion be accepted as a reason for the introduction of martial law.

(6) Signs of revolutionary movement.

The sixth reason refers to the old conspiracy and what is called the general revolutionary movement which manifested itself in the bomb thrown at the Viceroy at Delhi; and Sir Michael O'Dwyer

says that "the signs of these movements were not yet dead." This obviously is too vague a reason for taking such a drastic step as the introduction of martial law. The evidence placed before us does not indicate that these movements were in any sense alive or that they played any part in these disturbances.

(7) Turkey and Muhammadans

The seventh circumstance relied on by Sir Michael O'Dwyer is the anxiety as regards the effect of the Turkish Peace terms on the Muslim population and the state of ferment in Afghanistan and on the frontier. Sir Micheal O'Dwyer however has said in his evidence that he was not very much concerned in this connection in the Punjab, because he had tested the Muhammadans as highly as any people could be tested and he felt sure that the Muhammadans would stand the test. The Afghan situation had not materialized at this stage.

(8) Railway strike.

The eighth circumstance relied on by him is that a general railway strike was contemplated. This was due to internal discontent and had been apprehended for a considerable time prior to the disturbances. The evidence does not establish that in any sense it was connected with these disturbances or prompted by the people who took part in them. That was a situation which required to be dealt with on its own merits and separately by adopting the necessary measures, and affords no ground in our view for the introduction of martial law in large areas unless it was otherwise necessary.

(9) Economic situation of the Punjab.

Ninthly reliance is placed on the economic situation especially in the towns which created an atmosphere of discontent. That again is obviously no reason for the introduction of martial law. Then, while each of these nine grounds is insufficient as shown above to justify the introduction of martial law, their cumulative effect is not in our view such as to lead to a conclusion in favour of such introduction. The real test for the determination of the question is, as already indicated, whether such a state of open rebellion or acute disturbances existed in the districts in question, so as to make the supersession of the ordinary administration by the Military one a necessity. We have already stated above that in our view such was not the case. The gravity of the occurrences themselves of the 10th April and subsequent days are relied on as constituting the necessity for the measure. But these disorders had been effectively put down. There were still the after-effects and excitement which naturally result from such occurrences. But what was before the

authorities on the 13th or on the 15th April and thereafter was nothing like what they had already dealt with.

The military in aid of the civil authority.

14. With regard to the 10th and 12th of April, the authorities were to a certain extent taken by surprise but by this time the military dispositions and other necessary precautionary measures were organised. The situation, it appears, was well in hand and in our view there was no imperative necessity of superseding the civil authority who could have effectively carried on with the aid, if necesary, of the military, if any sudden emergency arose. It is said that such aid by the military is given only to assist the civil authority in quelling riots, in dispersing unlawful assemblies and in preventing the gathering of such assemblies, but their power of restoring order is entirely restricted. Section 130(2) of the Criminal Procedure Code gives them somewhat wide powers.

All the action that was taken by the military authorities before the declaration of martial law in Amritsar, Lahore and Gujranwala has been treated by the Punjab Government as done in the aid of civil authorities. They say "In these districts there was a preliminary period when the Officers Commanding troops were called upon to take steps in assistance of the civil power, and in other districts troops were called in and were utilized in various ways and in various degrees for the maintenance of order. The legal sanction covering the actions of the Commanders was that their aid was requisitioned by the civil authorities for the restoration of order." If the actual disturbances were so quelled by the assistance of the military and the civil authorities had by such assistance practically regained control, it appears to us no sufficient reason why at a time when there were no actual disturbances, the civil administration should have been superseded by introducing martial law and keeping in on for a lengthened period.

Maine's dictum inapplicable

15. Reliance is placed in the Majority Report on a passage from "Maine's Criminal Law of India." We venture to think it is profitless to make reference to a general proposition which no one disputes. The difficulty lies in the application of it in a given case. The first proposition invoked is that what distinguishes a riot which is the beginning of waging or levying war from a riot which will end in plunder and broken heads is the object with which it started. Of course, if the assumption is made that these riots were started with the object of rebellion, then nothing remains; but that is the very question to be determined. The other pro-

position invoked is that the governor who waits to recognise a rebellion till it looks like a war will probably find that he has waited too long. Here again, everything must depend on the actual facts and circumstances. There are dangers of waiting too long, but there are also dangers, perhaps greater, of being hasty and losing the proper perspective and adopting measures of unnecessary severity out of all proportion to the reality of the situation and thus bringing about the very result which you want to prevent.

Mrs. Besant and the Punjab

It is equally profitless for the purpose of establishing that the happenings in the Punjab were the actions of revolutionaries to cite the dictum of Mrs. Besant in a letter to the "*Times of India*" of the 18th April 1919, We are unable to see the utility of appealing to the pronouncement of Mrs. Besant, made within a few days of the occurrences with absolutely imperfect knowledge of those occurrences and of the surrounding circumstances, for the purpose of supporting the conclusions of a committee that has for months investigated the occurrences and heard a large body of evidence. We do not know whether those who have invoked the authority of this dictum of Mrs. Besant will be prepared to accept her judgment on the Punjab disturbances, pronounced by her on the 21st of December, 1919, to the following effect :—"I have been shocked to read the evidence given by the military witness before the Hunter Committee. Nothing more than is recorded out of their own mouths was done by the Germans in Belgium."

Situation as a whole

Then it is said that the action of the Punjab Government in applying for matial law must be judged in the light of the circumstances as they presented themselves at that time. We have already fully dealt with all these circumstances as stated before us by Sir Michael O'Dwyer; and we cannot avoid the impression that the then Punjab Government rather easily persuaded themselves that the introduction of martial law was necessary.

Martial temperament in the Punjab

The argument is advanced that the people of the Punjab being of a martial temperament are easily inflammable. The picture given by Sir Michael O'Dwyer of the Punjabis is quite different. In his speech in September 1917 he said that "Common sense and sanity of judgment are essentially Punjab qualities" and those being also British qualities has led to "mutual comprehension, mutual confidence and mutual co-operation between the Government and the people."

Martial law not invoked in 1914 and 1915

We have referred to the revolutionary movements of a serious and dangerous character that manifested themselves in the Punjab in 1914 and 1915. At that time although strong measures for dealing with them were taken martial law was never introduced.

General Beynon and martial law

It may be pointed out here that in the wireless of the 13th of April the Punjab Government in suggesting the declaration of martial law said that they were doing so "with concurrence of General Officer Commanding and Chief Justice, High Court." The General Officer Commanding, General Beynon, was asked about this and the following is his evidence on this point :—

Q. That proclamation was signed by you on the 19th of April. You had been the highest military officer in this part of the world for some substantial time before that, and may I take it that you gave advice upon the question whether martial law was necessary before the question was referred to the Government of India at all ?

A. It was mentioned to me but I do not think you can really say my advice was given. At all events I had nothing to do with the bringing in of martial law.

It appears from Mr. Thomson's evidence that the Chief Justice, when he agreed over the telephone to the suspension of the functions of the ordinary Criminal Courts, did not know the actual number of criminals to be dealt with, but he based his opinion on "the general state of affairs—existence of rebellion, etc."

Loot the object of attacks on communications.

General Beynon also says in his report that the mob wanted loot and the easiest way to get that was to smash up a small wayside station and hold up a train going through and loot it. He further says that the raiders did not attempt to destroy bridges except for burning sleepers on unprotected small ones, nor did they even appear where there was any force sufficient to do them any material damage.

The Government of India.

Then it is said that we must look at the situation as it presented itself to the Government of India at the time ; and a passage in the memorandum by the Government of India is relied on in the Majority Report. Reference is there made to the disturbances at Bombay, Ahmedabad and Calcutta. The matter was apparently represented as a big affair with ramifications in the various parts of the country ; and the Punjab Government had said that a state of open rebellion existed in certain parts of the province.

We appreciate the position in which the Government of India were placed when the Lieutenant-Governor in charge of the Punjab

insisted upon the introduction of martial law. The Government of India accepted the recommendation of the Punjab Government. This is what General Hudson says :—

Q. What was there which induced the authorities at headquarters to think that martial law was necessary ?

A. Martial law was considered necessary because the people who were in touch said it was.

Q. It was really thought necessary in view of the internal state of the places themselves as it was represented by the people on the spot.

A. Absolutely.

Continuance of martial law.

16. If our view is correct that it was not necessary to introduce martial law on different dates on which it was introduced in different places, it will follow that its continuance for the period for which it was continued was still less justifiable. Assuming for this purpose that its initial introduction was necessary, we are clearly of opinion, on the evidence placed before us, that it should not have been continued beyond a few days.

We have already referred in detail to the course of events at the various places which shows that quiet was completely restored and things became normal at all places in a few days. Colonel Johnson admitted that after the 15th of April there was no rising anywhere. General Dyer's evidence is as follows :—

Q. At what time do you say Amritsar became normal after the 13th of April ?

A. Very shortly after. The good efforts of the barristers and the pleaders and the police brought it right."

In another part of his evidence will be found the following questions and answers :—

Q. Can you tell us what was the need for continuing martial law for the period for which it was continued ?

A. No harm would be done. Martial law was being justly administered. It was not my job to discontinue martial law. I received my orders from higher authorities.

Q. I take it from you that martial law was continued because no harm was done and it was justly administered but there was no particular necessity for continuing it ?

A. As far as I could see law and order had come and I suppose there was an interval when martial law was not necessary but it may have continued to go on for a bit longer.

In a proclamation issued by the Lieutenant-Governor on 26th of April at Lahore he said "Order has been restored almost everywhere by the prompt action of the troops—British and Indian—whom the mischief makers attempted to malign and by the loyal co-operation of the quiet mass of rural population. Existing precautions must however be retained till all criminals are brought to justice.

The Punjab Government in their case presented to us, say "on the 16th of April order began to slowly assert itself. No large town was henceforth seriously affected, and the disorder was confined to isolated attacks on the communications and to outrages by the villagers. The 17th April showed a further progress in recovery of law and order. On the 19th, the matters may be said to have returned to the normal in the greater part of province." There is no further record of open disorder." They again say "In Amritsar and Lahore, the civil authorities had already on April 15th requisitioned the aid of the military and obtained it in sufficient force to crush any active disorder. For Gurjanwala, additional troops were easily available on the 16th. In Gujrat and Lyallpur open disorders had terminated some days before martial law was declared." In speaking of Lahore, they say, "the actual period of disorder may be said to have ended with the termination of HARTAL." The HARTAL at Lahore ended on the 17th, the shops were opened. It also appears that a considerable body of opinion had immediately asserted itself in favour of law and order. The Punjab Government in their report say ;—

"Even before the actual restoration of order there had been many proofs that responsible and moderate opinion was declaring itself against the campaign of lawlessness. On the 13th April the Hon'ble Sardar Bahadur Gujjan Singh issued a manifesto exhorting Sikhs to stand aloof from the agitation. On the 17th two manifestos issued from Rohtak contradicting the unfounded rumours in regard to the Rowlatt Act that were current in the villages ; on the 18th a manifesto signed by a number of prominent men in Gurdaspur advocated a return to order. A similar manifesto issued from Ferozepore District. On the 20th a number of Muhammadans in Lahore, on behalf of the leading Muhammadan Asscciations, condemned the passive resistance movement and its results. On the 21st a manifesto issued from the Chief Khalsa Dewan, the chief political organization of the Sikhs, urging the latter to stand by Government. On the 24th the Punjab Zemindar's Central Association, Lahore, impressed on all landholders the paramount necessity of putting an end to "the sad conditions resulting from the passive resistance movement," and on the 25th the leading Hindus of Lahore issued a manifesto condemning in the strongest terms all resistence to law and order, whether active or passive. A similar manifesto was also issued by the Anjuman-i-Ahmediya, Lahore. On the 23rd May, the Pirs of the chief Muhammadan shrines in the Punjab assembled at Lahore and expressed their sense of loyalty to Government and their condemnation of the recent disturbances."

The reasons for continuing martial law, after the disorders had ceased, are stated by the Punjab Government thus :—"The course of martial law administration subsequent to that (termination of disorder) was really in nature a substitute of civil administration of a summary type, of which the primary objects were to establish a MORALE which would afford a guarantee against the recrudescence of disorder, to safeguard railway and telegraph commmunications against further interruptions and to restore the position of Government as the guarantor of peace and good order which had been sacrificed between the 10th and 17th April." In so far as the object to be achieved was the establishment of a proper MORALE and to restore the position of the Government, by which we suppose is meant to restore the prestige of Government, we do not think it affords a sufficient justification for subjecting the whole population of large districts to martial law administration. As regards safeguarding the communications we have already pointed out that it had already been effectively secured : and any further safeguard, if necessary, could have been secured by continuing martial law on the railways.

Sir Michael O'Dwyers reasons for continuing martial law, after disorders had ceased, are the same nine reasons which we gave for the initial introduction of martial law and we have sufficiently dealt with them in a previous section. We may observe that some of these reasons, particularly 3 to 6, had lost much of their force by the experience of the period between the 10th and the 20th as none of the apprehensions underlying these reasons had materialized.

The Government of India were, it appears urging upon the Punjab Government that the continuance of martial law in any area must depend on the continuance of a state of rebellion in that area. When their telegram of the 26th April, in urging the establishment of summary courts for the disposal of minor offences the Punjab Government said that unless that was done martial law might unnecessarily be protected, because the powers of the commissions depended on the existence of martial law and those commissions would be able to dispose of all the cases speedily, the Government of India in their reply of the 29th April said as follows :—

> "Government of India think termination of martial law in any area must depend entirely on continuance of state of rebellion in that area ; and the fact that cases depending before courts established under Regulation is not an adequate reason for suspension of ordinary law."

It appears from Sir Michael O'Dwyer's evidence that the Government of India enquired on the 3rd May if martial law could not then be withdrawn. The Punjab Government held on the

14th May 1919 a conference with the military and railway authorities and prepared a memorandum in reply.

A careful perusal of that memorandum is instructive. In our opinion, the question was discussed from altogether a wrong point of view. The real question to discuss was as put by the Government of India, whether there was such a state of rebellion in the districts in question as to justify the continuance of martial law. Instead of that the matter was considered from the point of view as to what the advantages were that were to be derived from the continuance of martial law. The memorandum after discussing the question from the military and railway points of view (we have already dealt with these points), says :—

"From the civil point of view it was considered that the following advantages are being derived from the continuance of martial law :—(1) It has undoubtedly a steadying effect on the population not only within the martial law areas but also outside. (2) In Lahore the fixing of prices is popular with the masses. If martial law were discontinued this would have to be done by means of a special Ordinance. (3) It is proposed to recover from the disturbed areas by means of a levy made under martial law a sufficient amount to cover certain incidental expenses which cannot be recovered by claims under Section 15-A of the Police Act. Among items which have been suggested are :—

(i) the cost of military operations ;

(ii) the cost of extra defences which the disturbances have shown to be necessary, e. g., at the Lahore telegraph office and the power station ;

(iii) the cost of sending women and children out of the disturbed area and maintaining them in the hills (orders sanctioning a levy for this purpose have already been issued in certain cases though as far as is known the levy has not yet been made). The objection based on the desirability of recovering these sums of money from the disturbed areas is, however, not insuperable, as it would be possible to authorise their recovery under a special Ordinance ;

(iv) It is considered desirable that in order to avoid demonstrations the trials of the principal offenders before the Martial Law Commission should be completed before martial law is discontinued. It is expected that all the most important cases wile be decided by end of the month."

Here we are presented in a concentrated form the wrong viewpoint which impelled the Punjab Government to introduce and to continue martial law. It is, we think, unreasonable to suggest that martial law is justified because of the moral effect it produces on the

population so treated as well as in other parts of the province. This idea of creating an impression and moral effect on a wide scale unfortunately pursued the Punjab Government and those who administered martial law, and it runs through and accounts for most of the severe measures by the authorities during this period. To advocate the continuance of martial law in order to enable the authorities to fix prices of commodities is on the face of it equally unreasonable. The idea of maintaining martial law in order to enable certain exponses to be recovered from the population of the disturbed area shows that martial law administration was required to be continued for punitive purposes. The suggestion that martial law should be continued in order that the trials of principal offenders under martial law should be completed, while the martial law administration lasted so that the demonstration might be avoided again displays a notion about the objects of martial law which we are unable to uphold. The principle that the supersession of the ordinary laws and the ordinary civil admistration and the serious curtailment thereby of the ordinary rights of freedom of individuals and the safeguards for the same can only be justified by the supreme necessity of quelling rebellion or disorder, and cannot be continued a day longer after that necessity has ceased, has not been steadily kept in view.

In the above memorandum the Punjab Government put forward an additional reason for continuing martial law which further emphasises their notion about this matter to which we have already referred. In paragraph 5 they support the continuance of martial law on the ground that it will enable them to exclude from the province persons from outside the province who are likely to publish inflammatory or misleading accounts of the events in the Punjab, without having resort to the Defence of India Act.

The Government of India by their telegram of the 18th and 20th May intimated that martial law in Gujrat and Lyallpur ought to cease immediately. In the latter telegram, they said they "are also strongly of opinion that the cessation of martial law should be expedited. Your particular attention is invited to the terms of the Regulation for the conditions precedent to the continuance of martial law." The Punjab Government in their memorandum of the 22nd May in referring to the above, say as follow :—"In the last sentence of your telegram you draw attention to the terms of Regulation as to the conditions precedent to the continuance of martial law. The suggestion is that it would be an exaggeration to describe the existing state of affairs as open rebellion. The Lieutenant-Governor recognises the weight of this criticism ; but in so far as it is a technical objection to the continuance of martial law

it can be cured by publishing a notification containing a reference to the existence of a state of war with Afghanistan which has supervened since the 15th April when martial law was first declared." That a state of open rebellion no longer existed in the districts concerned was in the view of the Lieutenat-Governor, only a technical objection. It was not realised that that was the fundamental condition on which the whole justification for martial law rested. The objection, technical as it appeared to the Lieutenant-Governor, does not appear to have been cured in the manner suggested by him. It is difficult to hold that existence of the state of war with Afghanistan could support the continuance of martial law in the districts concerned if the state of the alleged open rebellion had ceased long ago. The Punjab Government were apparently unwilling to discontinue martial law early even in Gujrat and Lyallpur. But the Government of India by their telegram of 30th May intimated that it should be abrogated in Gujrat at once and from Lyallpur "as soon as reports from that district indicate that this step can be taken." In fact, the discontinuance of martial law at Lyallpur was delayed as late as the 9th June, presumably because the district officers were not in favour of such discontinuance. Certain correspondence between the Commissioner, Multan Division, and Deputy Commissioner, Lyallpur, which was produced before us, shows that one of the objects for continuing martial law was to avoid trouble in getting in land revenue. The Commissioner in his letter dated the 20th May, 1919, says as follows:—"His Honour spoke to me about martial law in your district. It is now the only rural area in which martial law exists. It has been kept on only because of the scare that there might be trouble in getting in revenue. I told His Honour that I understood that your fears on this subject had been somewhat diminished during the last few days; and that if an adequate military force is maintained in Lyallpur martial law is not required in any place at Lyallpur, except the town, its vicinity and the railways. If you have anything to say against this view, will you please write direct to the Chief Secretary and send a copy to me."

The Deputy Commissioner on the 24th May wrote to the Chief Secretary as follows: "With reference to the enclosed demi-official letter from the Commissioner, I think that, so far as the district is concerned, that is the rural area, if troops are left here we should have no difficulty about realisations even in the event of any village giving any trouble. I am anxious to keep martial law in Lyallpur Municipal Area until (1) Mr. Hoyle, Assistant Commissioner, with the powers of Summary Courts has finished his trial of cases connected with events after the 30th March but prior to the procla-

mation of martial law, (2) Government has passed orders on the reference which was made about levies under martial law."

That the Commissioner and the Deputy Commissioner of a division should have pleaded for the continuance of martial law and the Punjab Government should have assented to keep it on "only because of the scare that there might be trouble about getting in the revenue," shows how far the Punjab authorities had travelled from the correct notions about martial law.

The Government of India acquiesced in the continuance of martial law so long because as they explain in their memorandum "they decided that it would be unsafe and unfair to those directly responsible for the maintenance of order to disregard the views of the local Government who necessarily had detailed information as to the conditions of the disturbed area, which was not available to the Government of India."

As regards the complication created by the war with Afghanistan which has been relied on as a reason for the continuance of martial law, the evidence shown and it is common knowledge that on the news of the war being received there was a tremendous rally round the Government and people from all parts of the country and notably in the Punjab, by holding meetings, denouncing the action of the Amir of Afghanistan and offering help, made it clear that the country was solidly behind the Government. General Dyer says that on the declaration of war the Sikhs offered to supply 10,000 soldiers to proceed immediately to the front.

The Firing at the Jhallianwala Bagh

Jhallianwala Bagh incident

1. What the military authorities did at Amritsar up to the declaration of martial law is, as has already been observed, taken by the Punjab Government as done in the aid of the civil authority and they say that such action will be governed by sections 130-131 of the Criminal Procedure Code. The action of the civil authorities, in asking the Officer Commanding "to consider himself in charge of the military situation and to take such steps as he thought necessary to re-establish civil control," it may be argued, amounted to the establishment of *de facto* martial law, but for the purposes of judging the Jallianwala Bagh incident, it is immaterial whether General Dyer was acting merely in aid of the civil powers or on his own initiative as the Military Commander at a place where *de facto* martial law existed. On the morning of the 13th of April, General Dyer issued a proclamation, the relevant portion of which order for this purpose is as follows :—

> "No procession of any kind is permitted to parade the streets in the city or any part of the city or outside it at any time. Any such processions or gatherings of four men will be looked upon as unlawful assembly and will be dispersed by force of arms if necessary."

Proclamation prohibiting meeting insufficiently promulgated.

2. It appears that this proclamation was promulgated by General Dyer himself who went to certain parts of the town with the NAIB-TAHSILDAR and others. The people were collected at certain places by beat of drum and the proclamation was made known to them in the vernacular ; printed copies of the Urdu translation of the proclamation were also distributed. There was produced before us a map of the city with the route followed by General Dyer and the places at which the proclamation was promulgated marked on the map. There is no doubt, on this map and other evidence placed before us, that the proclamation was insufficiently promulgated, important portions of the town having been left out. The number of people who could have heard the proclamation promulgated is put down at 8 to 10,000 people ; the total population of the city is put down at 160,000 to 170,000. There was a large influx of people from outside owing to the BAISAKHI fair which is an important religious festival ; and there was also a cattle fair. The

reason for this insufficient promulgation is given in the evidence of Mr. Plomer, Deputy Superintendent of Police :—

Q. You thought that it was sufficient notice for a town like Amritsar to give of an important proclamation ?

A. I did not think anything. When it was too hot to walk in the city, I took the nearest route out.

Q. You did not suggest to the General that a longer time might be given ?

A. No. When we got to the Majid MANDIR the General remarked that it was getting too hot for the troops so I took the route to Lohgar Gate.

Q. And then this proclamation was stopped ?

A. Yes.

No attempt was made to put printed copies of the proclamation at the entrances of Jallianwala Bagh, although it is said, as will be seen hereafter, that it was the place where a number of public meetings had previously been held. General Dyer returned to his camp at Ram Bagh at 12-40 P.M., and on his arrival there he learnt that a big meeting was going to be held at Jallianwala Bagh at 4-30 P.M., It appears that General Dyer, as soon as he heard about the contemplated meeting, made up his mind to go there with troops and fire. He intended to fire upon them with machine-guns, but he was unable to use machine-guns owing to the accident of his being unable to take the armoured cars into the narrow entrance leading to the Bagh. When he took the machine-guns with him he did not know of this difficulty as he had never seen the place before. Similarly, if he had more troops available than the 50 he had, according to him, he would have ordered all of them to fire. When he reached there, he saw a large meeting of people squatting on the ground and being addressed by a person from a small platform. The number of those attending the meeting are varyingly estimated from 15,000 to 20,000, but General Dyer at the time believed it to be 5,000 or 6,000. He put 25 Baluchis and 25 Gurkhas on the raised ground at the entrance and without giving any warning or asking the people to disperse, immediately opened fire at the people in the meeting who were at a distance of 100 and 150 yards. The people, as soon as the first shots were fired, began to run away through the few exits the place has got, but General Dyer continued firing till the ammunition ran short. In all 1650 rounds were fired, and the casualties have now been ascertained to be at least 379 killed and about 1200 wounded.

His was not the case of a person who had to take a quick decision on a sudden emergency. After he received the information about the contemplated meeting he had four hours to think before he started to go to Jallianwala, he took half an hour to reach there and he arrived there with his mind already made up as to the action he was going to take. His action was in accordance with a determined resolution that he had deliberately arrived at.

In the report he made on the 25th August, 1919, to the General Staff, 16th Division, General Dyer says: "I fired and continued to fire till the crowd dispersed; and I considered that this is the least amount of firing which would produce the necessary moral and widespread effect it was my duty to produce if I was to justify my action. If more troops had been at hand the casualties would have been greater in proportion. *It was no longer a question of merely dispersing the crowd*: but one of producing a sufficient moral effect, from a military point of view, not only on those who were present, but more especially throughout the Punjab. There could be no question of undue severity." Then in the evidence before us, General Dyer said :—

Q. I think you had an opportunity to make up your mind while you were marching to decide what was the right course. You came to the conclusion that if there really was a meeting, the right thing for you would be to fire upon them straight way?

A. I had made up my mind. I was only wondering whether I should do it or I should not.

Q. No question of having your forces attacked entered into your consideration at all?

A. No. The situation was very, very serious. I had made up my mind that **I would do all men to death** if they were going to continue the meeting.

* * * * * * * *

Q. Does it or does it not come to this; you thought that some striking act would be desirable to make people not only in Amritsar but elsewhere to consider their position more correctly?

A. Yes. I had to do something very strong.

Q. You commenced firing the moment you had got your men in position?

A. Yes.

Q. The crowd had begun to go away when you continued firing?

A. Yes.

Q. The crowd were making an effort to go away by some of the entrances at the further end of the Bagh?

A. Yes.

Q. You put your pickets one to the right and one to the left of the entrance. Towards some places the crowd was getting thicker than other places?

A. They did.

Q. From time to time you changed your firing and directed it to places where the crowds were thickest?

A. That is so.

Q. Is that so?

A. Yes.

Q. And for the reasons you have explained to us you had made up your mind to open fire at the crowd for having assembled at all?

A. Quite right.

* * * * * * *

Q. When you heard of the contemplated meeting at 12-40 you made up your mind that if the meeting was going to be held you would go and fire?

A. When I heard that they were coming and collecting I did not at first believe that they were coming, but if they were coming to defy my authority, and really to meet after all I had done that morning, I had made up my mind

that I would fire immediately in order to save the military situation. The time had come now when we should delay no longer. If I had delayed any longer I was liable for court-martial.

Q. Supposing the passage was sufficient to allow the armoured cars to go in would you have opened fire with the machine-guns ?

A. I think, probably, yes.

Q. In that case the casualties would have been very much higher ?

A. Yes.

Q. And you did not open fire with the machine-guns simply by the accident of the armoured cars not being able to get in ?

A. I have answered you. I have said if they had been there the probability is that I would have opened fire with them.

Q. With the machine-guns straight ?

A. With the machine-guns.

Q. I gather generally from what you put in your report that your idea in taking this action was really to strike terror ? That is what you say. It was no longer a question of dispersing the crowd but one of producing a sufficient moral effect.

A. If they disobeyed my orders it showed that there was complete defiance of law, that there was something much more serious behind it than I imagined, that therefore these were rebels, and I must not treat them with gloves on. They had come to fight if they defied me, and I was going to give them a lesson.

Q. I take it that your idea in taking that action was to strike terror ?

A. Call it what you like. I was going to punish them. My idea from the military point of view was to make a wide impression.

Q. To strike terror not only in the city of Amritsar but throughout the Punjab ?

A. Yes, throughout the Punjab. I wanted to reduce their MORALE ; the MORALE of the rebels.

* * * * * * *

Q. Did you observe that after the firing was opened there were a number of people who lay on the ground ?

Yes.

Q. And your men continued to fire on these people who were lying on the ground ?

A. I cannot say that, I think that some were running at the time and I directed them to fire, and sometimes I stopped firing and re-directed the firing on other targets. The firing was controlled.

Q. Did you direct the firing on people who were lying down in order to save themselves ?

A. I probably selected another target. There might have been firing on the people who were still lying down though I think there were better targets than that.

Key to General Dyer's action unjustifiable.

The last but one extract supplies key to the action of General Dyer. He fired on this meeting, and killed about 400 people and wounded about 1,200 ; because in his view, they were rebels and he was " going to give them a lesseon " and " punish them " and " make a wide impression " and " strike teror throughout the Punjab " and he " wanted to reduce the *morale* of the rebels." That was why he began to fire without warning and calling upon them to disperse,

He continued firing even when the people began to run away, and went on firing till his ammunition was nearly exhausted.

Innocent people among the crowd.

Now, because certain people on the 10th April, had committed certain outrages at Amritsar, to treat the whole population of Amritsar as rebels was unjustifiable ; it was still more unjustifiable to fire at the meeting which was not engaged in doing any violence, in order to give them a lesson and to punish them, because they had disobeyed his orders prohibiting meetings. It is clear that there must have been a considerable number of people who were perfectly innocent and who had never in all probability heard of the proclamation. The Punjab Government in their case submitted to us say that large crowds of villagers had collected for the BAISAKHI fair ; and that "there was a considerable number of peasants present at the Jallianwala Bagh meeting on the 13th ; but they were there for other than political reasons." And they say in another part, "It is clear that a considerable number of them (villagers) did attend as spectators." It is therefore obvious that the crowd on which General Dyer fired comprised people who did not belong to the city of Amritsar at all, and who, therefore cannot even vicariously be held responsible for the acts of the hooligans on the 10th April. General Dyer said in his evidence as follows :—

Q. On the assumption that there was a crowd of something like 5,000 and more, have you any doubt that many of these people must have been unaware of your proclamation ?

A. It was being well issued and news spread very rapidly in places like that under prevailing conditions. At the same time there may have been a good many who had not heard the proclamation.

Q. On the assumption that there was the risk of people being in the crowd who were not aware of the proclamation, did it not occur to you that it was a proper measure to ask the crowd to disperse before you took to actually firing upon them ?

A. No : at the time it did not occur to me. I merely felt that my orders had not been obeyed, that martial law was flouted, and that it was my duty to immediately disperse it by rifle fire."

Possible to disperse without firing.

General Dyer also admits that it was quite possible that he could have dispersed them without firing.

Q. What reason had you to suppse that if you had ordered the assembly to leave the Bagh they would not have done so without the necessity of your firing, continued firing for a length of time.

A. Yes : I think it quite possible that I could have dispersed them perhaps even without firing.

Q. Why did you not adopt that course ?

A. I could disperse them for some time ; then they would all come back and laugh at me, and I considered I would be making myself a fool.

It is now admitted that among the 369 dead, now officially recognized, 87 were ascertained to be residents of outside villages. The proportion of the outside people in the meeting must have been appreciable as shown by the fact that it attracted the attention of General Dyer even within the extremely short time—30 seconds—between his arrival and the opening of fire. He says in his report that the crowd appeared to be a mixed one consisting of city people and outsiders.

General Dyer's action approved by General Beynon and Sir Michael O'Dwyer.

3. It appears that the action of General Dyer was approved by General Beynon and also by Sir Michael O'Dwyer. General Beynon on the 14th April sent the following telegram:—"Your action correct. Lieutenat-Governor approves." Sir Michael O'Dwyer in his evidence before us, states that General Beynon spoke to him over the telephone about the Jallianwala Bagh incident and said that he fully approved of it and asked him (Sir Michael O'Dwyer) if he approved of it. Sir Michael O'Dwyer says that he at first said that it was not for him to criticise his (General Dyer's) action or to approve or disapprove of it.' But General Beynon added, that the situation in Amritsar had been completely restored. He (General Beynon) said that General Dyer would like to know that if he (Sir Michael O'Dwyer) approved of his action. The entry in War Diary of the 16th Division under date the 14th April is to the following effet: "At a Conference at Government House, General Dyer's report on his action at Amritsar was considered and action taken was approved by the Lieutenant-Governor."

Information before Sir Michael O'Dwyer when he approved.

Sir Michael O'Dwyer told us that before General Beynon's telephonic message came on the 14th April that morning he had got an account of the incident from the Deputy Commissioner which contained the information that General Dyer had fired without warning and had gone on firing about 5 to 10 minutes and dispersed the crowd inflicting 200 casualties, by which Sir Michael says he understood dead casualties. It was with this information before him that Sir Michael O'Dwyer expressed his approval of General Dyer's action later in the day.

Sir Michael O'Dwyer's point of view was and still is the same as that of General Dyer.

We must say we are not surprised that Sir Michael O'Dwyer should have expressed such approval, for it appears from his evidence before us that he holds practically identical views with

those of General Dyer in this matter. In his view, it did not matter if the people assembled at the Jallianwala Bagh that evening were different people from those who had committed murder and arson on the 10th, the very fact that they had assembled was enough to treat them as people who had committed murder and arson: and he also believes in the effect of General Dyer's action in crushing the alleged rebellion. In the written statement submitted to us he says: "The casualties were large and regrettable but the loss of life was inevitable, when a truculent mob which had already committed murder and rebellion assembled to defy authority." The following extract from his VIVA VOCE examination is instructive:—

Q. I want to ask you a few questions about the Jallianwala Bagh incident. You say on page 10 "the casualties were large and regrettable but loss of life was inevitable when a truculent mob which had already committed murder and rebellion, assembled to defy authority."

A. You have got my ADDENDUM to that statement.

Q. Yes. I will deal with that. The view there seems to be as if the crowd that had assembled there had committed murder and rebellion. Is there any evidence that that particular crowd had committed any murder or rebellion?

A. I do not suppose it could be said with reference to any particular crowd, but Amritsar city, as a whole, had committed murder and rebellion.

Q. You treated the whole city to be in rebellion and therefore everybody in the city as taking part in that rebellion. That was your view?

A. The view I took there was that that meeting was held to show their hostility to Government and their sympathy with the people who had committed rebellion and murder.

Q. It may be that those who assembled there that evening may have been different people altogther from those who committed actual murders and arson and other violent acts?

A. Yes, but they were there to show their sympathy with the people who committed murder and rebellion and their hostility to the Government which was repressing it.

Q. There is no evidence to show that they assembled there for that?

A. I think it may be inferred from the fact that they had assembled there knowing what the conditions in Amritsar had been for the previous three days and knowing that any such meeting had been prohibited.

Q. I am coming to the prohibition. But there is no evidence to show that the assembly there expressed their sympathy with those who had committed murder and arson?

A. I think the fact that they had assembled there was enough; they would not have assembled there without good reason, at a critical time like that.

Q. The mere fact that they had assembled justified the conclusion that they had assembled there for the purpose of expressing sympathy?

A. I think after what had happened in Amritsar for three days and taking that the prohibition issued that morning.

Q. I am coming to the prohibition. You say they assembled to express sympathy. There is no evidence at all. You infer it?

A. Yes, I infer it.

At another place in his written statement, Sir Michael O'Dwyer says:—

"Speaking with perhaps more definite knowledge of the then situa-

tion than any one else, I have no hesitation in saying that General Dyer's action was the conclusive factor in crushing the rebellion."

Effect of General Dyer's action in the country

4. General Dyer wanted by his action at the Jallianwala Bagh to create a "wide impression" and "a great moral effect." We have no doubt that he did succeed in creating a very wide impression and a great moral effect, but of a character quite opposite to the one he intended. The story of this indiscriminate killing of innocent people not engaged in committing any acts of violence but assembled in a meeting, has undoubtedly produced such a deep impression throughout the length and breadth of the country, so prejudicial to the British Government, that it would take a good deal and a long time to rub it out. The action of General Dyer as well as some acts of the martial law administration, to be referred to hereafter, have been compared to the acts of "frightfulness" committed by some of the German military commanders during the war in Belgium and France.

It is pleaded that General Dyer honestly believed that what he was doing was right. This cannot avail him, if he was clearly wrong in his notions of what was right and what was wrong; and the plea of military necessity is the plea that has always been advanced in justification of the Prussian atrocities. General Dyer thought that he had crushed the rebellion and Sir Michael O'Dwyer was of the same view. There was no rebellion which required to be crushed. We feel that General Dyer by adopting an inhuman and un-British method of dealing with subjects of His Majesty the King-Emperor has done great disservice to the interest of British rule in India. This aspect it was not possible for the people of the mentality of General Dyer to realise. The following extract from his (General Dyer's) evidence may be referred to in this connection :—

Q. Did it ever occur to you that by adopting this method of "frightfullness"—excuse the term—you were really doing a great disservice to the British RAJ by driving discontent deep?

A. No, it only struck me that at the time it was my duty to do this and that it was a horrible duty. I did not like the idea of doing it but I also realized that it was the only means of saving life and that any reasonable man with justice in his mind would realize that I hade done the right thing; and it was a merciful act though a horrible act and they ought to be thankful to me for doing it.

Q. Did this aspect of the matter strike you that by doing an act of that character you were doing a great disservice to the British RAJ?

A. I thought it would be doing a jolly lot of good and they would realize that they were not to be wicked.

People like General Dyer have the fixed idea that the effective way of governing in India is force. It is the same idea that General

Drake-Brockman of Delhi gave expression to in his written statement at Delhi : "Force is the only thing that an Asiatic has any respect for."

Wounded and the Dead.

5. The conduct of General Dyer, after the firing was over, was in keeping with the attitude which dictated the firing. He immediately left the place with his troops and did not do anything to see that either the dead were attended to or the wounded received help. He did not consider it to be "his job." It is said that it would not have been quite safe for him to have stayed at the Bagh any longer, as there was the risk of the crowd that he had dispersed overpowering his force as his ammunition was finished. But for the purpose of arranging for the dead and the wounded he need not have waited at the Bagh, but he could have given the necessary directions for the purpose after reaching his head quaters at Ram Bagh. Either he was in supreme command in supersession of the civil authority or he was there in aid of the civil power. If the former, we think he ought to have done something about the matter. If the latter position was the correct one, he should have informed the civil authorities and they should have made the necessary arrangements. But neither the civil nor the military authorities seem to have done anything at all. The following is General Dyer's evidence on the point.

Q. After the firing had taken place did you take any measure for the relief of the wounded ?

A. No, certainly not. It was not my job. But the hospitals were open and the medical officers were there. The wounded only had to apply for help. But they did not do this because they themselves would be taken in custody for being in the assembly. I was ready to help them if they applied.

Q. Were any measures taken immediately for dealing with the dead. ?

A. They asked that they might burry their dead.

Q. That was much later ?

A. My recollection is that when I got back they came and asked me and I said certainly. It never entered my head that the hospitals were not sufficient for that number of wounded if they had liked to come forward.

When General Dyer, in this part of his evidence, said that when he got back, the people came and asked that they might be allowed to bury the dead and he gave the necessary permission, he was under a misapprehension. The asking and giving of such permission took place the next day, *viz.*, 14th April. In the report which General Dyer made of the operations from the 11th to 14th April to General Beynon, and which is appendix III to that officer's report to the Adjutant General dated the 5th September 1919, he, after narrating the Jallianwala Bagh incident, proceeds to say that he returned to the head-quarters at 6 P.M. (13) and at 10 P.M. he marched through the city to make sure that his orders as to the inha-

bitants not being out after 20 hours (13th) was obeyed; he found the city absolutely quiet and not a soul was to be seen. He then says, "the inhabitants have asked permission to bury the dead, and this I am allowing." This evidently refers to the 14th; the day on which he made the report. This is further borne out by the entry made by Captain Briggs in the War Diary about this permission. The order itself which is appendix VI to General Dyer's report of 25th August 1919 permitting the burning or burial of the dead, is dated the 14th April. When this was pointed out to General Dyer he admitted that the permission was given on the 14th of April.

6. As already stated above, Sir Michael O'Dwyer learnt on the 14th April from the Deputy Commissioner about the Jallianwala Bagh, that General Dyer had fired without warning and had gone on firing for about 10 minutes, and that there were 200 dead casualties. It does not appear that any steps were taken by the Punjab Government for a long time to ascertain the real facts about so serious an occurrence and to find out the correct number of casualties. Sir Michael O'Dwyer, when asked about it, says in his evidence that, on the 15th April he had an interview of about a quarter of an hour with General Dyer and that afterwards the Punjab Government were awaiting General Dyer's report. Sir Michael O'Dwyer said that in the latter part of April, General Dyer had been taking moveable columns to the various parts in the neighbourhood of Amritsar and that when he came back he was sent early in May to the Afghan War. General Dyer did not make his report till the end of August 1919, and that was made in response to a communication from the Adjutant General dated the 19th July 1919 evidently asking for a special report. The Punjab Government do not appear to have taken any steps till the end of June to ascertain the casualties. Mr. Thomson, the Chief Secretary, said :—

Q. Do you know what steps were taken to ascertain what the number of the casualties were?

A. There were no steps until about the end of July when we told the Deputy Commissioner to make enquiries.

It appears that notices were issued on the 8th August, inviting people to give information regarding those who had met their death at the Jallianwala Bagh. During the discussion in the Imperial Legislative Council on the 9th September 1919, in speaking about this matter the Government enquiries showed dead casualties to be 291 and that any information which puts the number beyond this should be received with the gravest caution.

In his evidence before us Mr. Thompson admitted that certainly 379 dead casualties had taken place, and that there was possibly still a small margin for more.

Administration of Martial Law

Some Martial Law Orders Designed and used for Punitive Purposes.

1. Now we will proceed to examine the administration of martial law in the various districts. A careful consideration of the various martial law orders in the different districts leaves the impression that over and above securing the maintenance of law and order, they were designed and were used for punitive purposes, they interfered considerably with the ordinary life of people and caused much inconvenience and hardships. Such interference so far as really necessary, cannot be objected to but in our view as stated hereafter some of them were not necessary. Although these orders were issued by the martial law administrators in whom the power was legally vested, so far as the headquarters were concerned, the civil authorities were in touch with the martial law administrators and in Lahore. There were daily consultations between the Lieutenant-Governor, the Chief Secretary and the military authorities. Some of the martial law orders had the approval of the civil authorities, and some were issued at their suggestion. Mr. Thompson says that, as a rule, on matters connected with the ordinary life of the people they were consulted before order were promulgated. Regarding these regulations, the Punjab Government in their case says, "they involved no inconsiderable interference with the ordinary life of the people" and "that the total effect was punitive and to some extent restrictive." They further admit "The Curfew orders, the restrictions on travelling, the impressment of vehicles, the orders regarding roll-calls unquestionably involved much inconvenience to the people of Lahore."

Intensive Martial Law Administration in Lahore

2. Martial law appears to us to have been administered intensively by Lieutenant-Colonel Johnson in the Lahore civil area. He issued numerous notices and orders, controlling the daily life of the people very minutely.

Attendance of ward representatives from morning to evening to receive orders.

For the purpose of promulgating these orders, he required every ward in the city to keep at least four representatives from 8 A. M. till 5 P. M. at the water works station to learn what orders, if any, were issued and convey such orders to the inhabitants of their ward, and he ruled that the onus of ascertaining the orders issued by him

lay on the people through their representatives. There are many wards, and this must have necessitated the attendance of a considerable number of persons of some position from morning till evening every day during the period marfial law lasted, involving considerable inconvenience, humiliation and neglect of their ordinary business.

Nature of the Order.

On the 15th April, he issued what is known as the Curfew Order, prohibiting all persons other than Europeans or those in possession of special military permits from leaving their houses or being in the streets between the hours 20-00 and 05-00. This was subsequently modified so as to make it applicable after 9 P.M., then 10 P.M., and ultimately on and from after the 24th May, it was restricted to the hours of 12 P.M. to 2 A.M. He ordered the shops to be opened and business to be carried on, proceeded to fix in detail the prices of almost all commodities, and issued orders for the prevention of adulteration of milk. He commandeered from Indians their motor-cars and other vehicles, electric lights and fans, and notified that misuse or waste of pipe water would be deemed a contravention of martial law. With regard to this impressment of motor-cars, etc., of Indians, it appears that it was dictated by the desire to teach the population of Lahore a lesson. Though Order No. III was in general terms asking for the delivery of all motors and vehicles of all descriptions Lieutenant-Colonel Johnson had issued exemption certificates to Europeans ; no such exemptions being made in the case of Indian residents. He, in his written statement, says as follows :—

Teaching the Indian population a lesson.

"Under Order tII all motor-cars had to be surrendered for military service, but in cases where I was satisfied that cars were essential to the business or profession of a European, their cars were at once released and an exemption certificate issued. I refrained from granting exemptions in the case of Indian resident in Lahore, as I thought it desirable to bring home to them all—loyal or disloyal alike—some of the inconveniences of martial law in the hope and belief that in future the weight of their influence will be wholeheartedly thrown against seditious movements likely to lead to the introduction of martial law."

In reference to taking of motor-cars belonging to Indians and giving them to Europeans, Lieutenant-Colonel Johnson, when he was asked whether it was the right thing to do, said : "Yes, I wanted to teach them a lesson." Regarding the order impressing the hackney-tongas, he admits that the main reason for doing it was that they had struck work as part of the hartal.

Q. What were the reasons for commandeering tongas and vehicles which were plying for hire? Was it not that they also took part in HARTAL?

A. That was the main reason. They were taking part in HARTAL. No one could move in Lahore if he wanted to; they refused to carry him.

Exhibition of martial law notices on properties and obligation cast on owners to see notices preserved.

He made it unlawful for two persons to walk abreast; and prohibited all meetings and gatherings of more than 10 persons. His treatment of students, and the orders he passed about them and the manner in which the orders relating to the exhibition of martial law notices on buildings and other places we will deal in detail later on. By order VIII issued on 10th April, Lieutenant-Colonel Johnson notified, "All orders to be issued under martial law will be handed to such owners of property as I may select and it will be the duty of such owners of property to exhibit and to keep exhibiting all such orders. The duty of protecting such orders will, therefore, devolve on the owners of property and failure to ensure the proper protection and continued exhibition of my orders will result in severe punishment."

What determined the selection of properties, suspicion of being 'not very loyal,'

The selection of these properties was made on the recommendation of the Criminal Investigation Department police, on the ground that the owners of those properties were not "notoriously loyal," or were suspected to be not very loyal.

It is obvious that an order like this making the owner of the property liable to severe punishment if any notice affixed on his property was defaced by any one of the hundreds and thousands of persons that may be passing in the street, on which that property abuts, was putting a very unjust burden on them. The fact that in the selection of these properties entered the consideration that the owners thereof were suspected to be not "very loyal" reveals the punitive object of the measure. This is what Lieutenant-Colonel Johnson says:—

Q. You left the selection of these houses to the Criminal Investigation Department?

A. They submitted a list. I requested them to submit a list of the people who were not notoriously loyal. I selected the houses from the geographical position from the map.

Brain-wave of Colonel Johnson

Lieutenant-Colonel Johnson appeared to be quite proud of what he had done. When asked "Do you think it a reasonable order to make," he answered 'Quite. I would do it again. It was one of the few brain-waves I had." It appears that a notice was stuck on the compound wall of the Sanatan Dharam College. It was sub-

Manner in which the Order was worked. Professor and students of a College interned for 30 hours.

sequently torn by somebody. Thereupon Colonel Johnson ordered that every male person found in the precincts of the compound should be arrested. Sixty-five students and all the professors of that college were accordingly taken to the Fort which is three miles away, and interned there for about 30 hours. They were then released after taking guarantees from the Principal that the defacing of notices would not happen again. Lieutenant-Colonel Johnson told us that he was waiting for an opportunity to show them the power of martial law ; and he took this opportunity of doing so. The object and character of this action would appear from the following extract from Lieutenant-Colonel Johnson's evidence :—

Waiting for an opportunity to bring home to people power of Martial Law.

Q. Your view then was and your view still is, that it was a reasonable order to make ?

A. I had got to stop notices being torn down and I wanted to make an example of somebody who had torn them down.

Q. You considered it then, and you still consider it to be a reasonable order ?

A. Undoubtedly.

Q. And your frame of mind then was, as you indicate in your report on page 11, that you were waiting for an opportunity to bring home to all concerned the power of martial law ?

A. That was so, Sir.

Q. You were longing for an opportunity ?

A. Only in the interest of the people themselves.

Q. I did not suggest it was any other interest ; it may or may not have been but you were longing for an opportunity to show them the power of martial law ?

A. Quite.

Q. And you got this opportunity ?

A. And I took it.

Q. And you marched these 500 students and their professors in the sun 3 miles ?

A. That is so.

Q. And you still maintain that was a proper exercise of your authority as Martial Law Administrator ?

A. Absolutely. I would do it again to-morrow in similar circumstances.

Principal of another College Dealt with.

A poster of an objectionable character was found on the outer wall of the Dayal Singh college. Upon that, Lieutenant-Colonel Johnson issued an order that if the college authorities did not find out the writer and report his name to him the same day by 12 noon, he would take drastic measures against all concerned. Lieutenant-Colonel Johnson summoned the Principal and fined him Rs. 250,

and sent him in the custody of two soldiers to collect the fine. The Principal, on the payment of the fine, was released. A little later, it happened that the man on whose information, as to the poster having been found on the college wall Lieutenant-Colonel Johnson had acted, was convicted of perjury at Kasur and on that the fine was remitted. Then Colonel Johnson undertook on a large scale the punishment of students of seven colleges.

Roll-call of students four times a day. 1,000 students made to walk 16 miles a day in the heat of May for many days.

Then Lieutenant-Colonel Johnson issued orders that the students of the D. A. V. College, the D. S. College and the Medical College should attend a roll-call four times a day for a period of nearly three weeks. This necessitated a large number of students walking in the hot may sun of Lahore 16 miles every day. Lieutenant-Colonel Johnson was under no misapprehension about it, for when it was put to him that the students had to walk 17 miles a day, he protested that it was 16 and that he had measured it on the map. When his attention was drawn to the hardship involved he said :"No hardship at all for able-bodied young men. It was only a mild type of physical exercise for able-bodied young men. According to Lieutenant-Colonel Johnson, this order was passed not as a punishment, but for the purpose of keeping the students out of mischief. When it was put to him whether it ever occurred to him that this treatment of students was eminently calculated to make those young men very bitter with hatred towards the British Government for the rest of their lives, he answered that the atmosphere of the colleges was such that he could not make it worse.

It appears that in all over 1,000 students were so punished. Some of them were expelled permanently from the college and were declared unfit in future to enter any college ; others were punished by being rusticated for various reasons ; and yet others had their scholarships and stipends stopped.

It appears that these punishments were awarded not after investigation into individual cases ; but Lieutnant-Colonel Johnson decided that a certain percentage of the students in each college should be punished. When the Principals of the various colleges sent up the lists of punishments, in cases in which he thought that the punishments were either not adequate or did not come up to the proper percentages, he remitted the list to the Principals concerned to bring up the lists to the proper percentage. This is what Lieutenant-Colonel Johnson says about the matter :—

Q. Did you tell them what percentage of students were to be punished ?
A. No ; not at the meeting.

Q. Then you fixed a particular day by which the punishments, which they fixed upon, should be submitted to you for approval ?

A. That is so.

Q. And they sent up lists to you of the punishments they suggested ?

A. They did.

Q. And when you got these lists it was your view that these punishments were insufficient ?

A. Some of them were. Some of them were adequate.

Q. And on that did you inform the Principals that unless the punishments were raised the colleges would be closed and the students would be stopped from attending University examinations ?

A. That is so.

Q. Have you got that correspondence between yourself and the Principals on the subject ?

A. No. I have not.

Q. What happened to it ?

A. It was filed in the offices of the Martial Law Administrator. It was taken over with the rest of the office by the officer who succeeded him in command of Lahore.

Q. It must be available somewhere in the official records ?

A. I take it, it is.

Q. Now in the correspondence did you suggest to the Principals that a certain percentage of students should be punished ?

A. I am not sure ; possibly I did.

Q. You suggested just now that you did so at some stage ?

A. I thought I did, in this correspondence.

Q. You fixed the percentage of each college which should be punished.

A. I took the same percentage as the other colleges whose punishments I thought were adequate

In this connection, Lieutenant-Colonel Johnson expressed the view that by teaching them that there is penalty even for 'suspected sedition', you are stopping it. It is true that some of the students of the colleges in Lahore had been in the unruly mobs on the 10th April and some gave utterance to sedition. But because some were guilty to punish all whether guilty or innocent as Lieutenat-Colonel Johnson proceeded to do, was in our opinion not justifiable. Such a measure was almost certain to produce bitterness in the minds of the students by reason of their feeling that they were unjustly dealt with. When it was put to Lieutenant-Colonel Johnson that the fact that he had received reports of the improper behaviour of certain students, was not enough to make him decide to punish all, he gave the following reply :—

Q. Because you got reports of the character you mention with regard to 20, 30, or even 50, you thought that was enough to justify in making orders of this character affecting thousands ?

A. I thought I was justified in making the orders at the time ; I still think, and I shall always think so.

The correspondence between Lieutenant-Colonel Johnson and the Principals on this matter shows that when two of the students

means. It would not have taken much ingenuity to get necessary things. They might have suffered a little amount of inconvenience.

Q. How were they to get food, if most of the houses had no back entrances?

A. Those who had not back entrances if they had to get the necessities of life, might have gone on the roof and improvised means. If not they could wait until 8 o'clock in the night and then go out and get the things.

Q. All this thing might have a very different effect from the effect you wished. Instead of being a just punishment on those who were intended to be punished, it might cause a great deal of ill-feeling among those who resented treatment of this sort and who were not responsible for the acts that were done?

A. Amritsar had behaved very badly, and I think most of the inhabitants of Amritsar either gave assistance or were only waiting to see what was going to happen apparently. At any rate, they did not offer any help until after the firing and if they suffered a little under martial law . . . .

Q. Do you admit that during a period of turmoil when the mob was having the upper hand, it is difficult for the peaceful citizen to give assistance in quelling the disturbances and it is just on that account that the extreme act of firing upon a mob is justified?

A. Yes, they were obstructing law-abiding citizens, I presume, but I think that on that occation we only thought of punishing the wicked and men who had beaten Miss Sherwood who had to go through that street were punished. It was not my intention to punish anybody else.

General Dyer says that he did not expect that any body would pass through the street and subject himself to this order of going on all fours. It was, however, a very curious coincidence that within a few minutes after he had passed the order and put the pickets, 12 persons had to be arrested for being insolent and he ordered them to be taken into custody, and the police took them them through that street and the picket enforced the crawling order on them. General Dyer appears to have been pleased at this providential result. In his report he says: "I inspected that spot where Sherwood ultimately fell and I gave orders for a triangle to be erected there; I then posted two British pickets, one to each end of the street, with orders to allow no Indians to pass, that if they had to pass, they must go through on all fours. I never imagined that any sane man would voluntarily go through under those conditions and I was still searching for some fitting punishment when Providence stepped in. After giving my orders I proceeded further through the city, as I passed I gave orders for eleven insolsent inhabitants to be handed over to the police, and brought to me at Ram Bagh at 9 A.M. next morning. I did not know that the police who accompanied my force had been left at the far end of the street in which the pickets were posted. Arrived at that near end of the street, the prisoners were confronted by the non-commissioned officer in command of the picket and made to crawl, between the two pickets, a distance of about 150 yards."

Flogging in that street.

General Dyer further put up a triangle in this street for flogging

people, and six persons who were under arrest in the Fort for the assault on Miss Sherwood,on being found to have committed some breach of Fort discipline, were brought and flogged there. These people were ultimately found guilty of the assault on Miss Sherwood, but at the time they were so flogged they were merely under-trial prisoners. There is no record forthcoming of the trial and punishments of the eleven persons above referred to, who were arrested for the breach of the salaaming order, or, of the other six persons who were flogged in the street.

Q. What certainty had you at the time you ordered them to be whipped at this spot that they would be found guilty of this offence against Miss Sherwood ?

A. I did not know they would be found guilty, I lashed them.

Q. When they were lashed for a breach of Fort discipline they were not yet found guilty of the crime against Miss Sherwood, these particular men ?

A. The chances were from what I had heard and been told that these were the particular men. If they were not the particular men and another man was beaten still it did not matter very much whether he was beaten there or somewhere else, if he was convicted. I did not wish to run the risk if he had committed the offence against Miss Sherwood, of his being beaten somewhere else ; therefore when I heard that these were the men, I had them beaten in the same street.

Q. Were you not rather doing that from the point of view of striking the popular imagination ?

A. No, I had only that end in view that these men had in a dastardly manner beaten a woman and knocked her down six times in the street, and that nothing was too bad for them either from the point of view of a British man or a Hindu or a Sikh or any other man.

Sir Michael O' Dwyer Disapproved crawling order.

Sir Michael O' Dwyer strongly disapproved of this order and telephoned to General Beynon to have the order withdrawn as he considered it an improper order ; and he informed the Viceroy as to what he had done in the matter.

Gujranwala and other districts. Order requiring Indians to alight from conveyances and to Salaam European Officers.

4. Among the Martial Law Orders issued in the Gujranwala district, one attracts particular attention. That order which was issued on the 22nd April required the inhabitants of Gujranwala district whenever they met any Gazetted European civil or military officer to show respect to them by alighting from any wheeled conveyance or animals that such inhabitants might be riding and close any open umbrellas that they might be carrying and to salute the said officers. This order was extended to the Lyallpur district on the 30th April and to the Gujrat district on 2nd May. These orders calculated to humiliate the whole Indian population of those districts and have naturally left much bitterness. In our view, the order, as it was issued

and enforced, was wholly indefensible. Lieutenant-Colonel O' Brien, Deputy Commissioner of Gujranwala, says that he approved of the order :—

Q. Is it not enforcing humiliation on the Indian people, to make them alight from their carriages to salaam an European officer? Does it not savour of that?

A. You perhaps put the other way. It is rather this way. I go to the other extreme in insisting on the ordinary salutations being paid.

Q. It was necessary to go to the other extreme?

A. Perhaps so.

Q. For what purpose? What was the necessity for going to the other extreme and making this order?

A. The tendency of the present day is to abolish respectfulness. The Indian father will tell you that sons are not respectful even to their parents.

Q. The Indian young men are not following the ways of respectfulness and you therefore thought you would improve them by going to the other extreme and enforcing this order?

A. I say I did not pass this order. I generally agreed.

Q. That is the ground on which you defend it? I put it to you : if an order of this sort is in force would it not create considerable resentment and bitterness among the people, and would not they feel humiliated?

A. I do not know. The feeling of bitterness already existed.

Q. You thought there was bitterness sufficient and therefore any order of humiliation could not add to the bitterness.

A. I do not think its effect would be much.

This idea of exacting respect towards Europeans is responsible for the following order issued on the 8th May :—

Restrictions on travelling by railways imposed as a punishment for decreased respect towards Europeans.

"Whereas it has been shown to my satisfaction that the attitude of the inhabitants of Gujranwala towards Europeans has decreased in respect and whereas this is in contravention of notice under Martial Law No. 7, dated 22nd April 1919, I now order that as a punishment the restrictions regarding booking of passengers from Gujranwala and from the stations of Eminabad and Kamoki to the South, and Rahwali and Ghakkar on the North, which were relaxed to-day, the 5th instant, shall be again imposed on these stations for a further period of 14 days from this date."

It appears from this order that restrictions regarding the booking of passengers were imposed in some cases, not because they were deemed necessary for the maintenance of law and order, but as a punishment. It further shows the incapacity on the part of some of the Martial Law Officers to release the grave injustice of punishing the whole populations including a large majority of loyal and innocent people for the misdeeds of the few.

Roll-call of students.

5. Orders were issued, which were made applicable to the districts of Gujranwala, Gujrat and Lyallpur, that students should attend roll-calls daily once or more often as the Area Officer determined and there salute a British flag. These parades were to be attended also by the masters, and in the Gujrat area the order also provided that "if any boy is absent without any proper cause, his father would attend in his place." It appears that these orders were enforced even in the case of infants of four and five years. Here again it is the same conception that because some school boys had joined the crowds during the disturbances, the whole class of school boys was to be subjected to this order, irrespective of their being guilty or innocent.

Q. Then it comes to this, Major Smith, that certain boys in this area had taken part in the disturbances.

A. Yes.

Q. Therefore you thought that it was necessary, partly by way of punishment and partly by way of inculcating respect in their minds, to enforce this order on the infant boys of five or six, who had not taken part in these disturbances at all.

A. Yes.

Q. Do you still think it was a wise thing to do ?

A. Yes.

The Government case after referring to the rumour that was circulated owing to this order that several school-boys had died of sunstroke, says :—The actual fact is that on one occasion at Wazirabad, four of the small boys fainted from the heat, but suffered no serious effects. The mid-day roll-call was then abandoned."

The notion of punishing whole communities for the offence of the few is responsible for the following notification : the following order was issued as late as the 19th May :—

All students punished because two failed to salaam.

"Whereas two students of over 14 years of age failed to salaam to me on the 16th instant, thereby contravening 'Notice under Martial Law No. 7' and whereas it now transpires that they gave me their wrong names and addresses, I hereby direct that all students of over 14 years of age of the :—(1) Municipal Board School, Lyallpur, (2) Arya School, Lyallpur, (3) Sanatan Dharm School, Lyallpur, (4) Government High School, Lyallpur, shall parade in front of my office in the Public Library at 08-00 (eight) hours daily until the two offenders are given up, or failing this until such time as I consider necessary. They will be accompanied by a schoolmaster from each school, and will march past a Union Jack which will be erected in front of my office, and salaam to it as they pass, under the supervision of an officer appointed by me.

"The schoolmaster accompanying the boys of each school, will bring with him daily a nominal roll of all the boys of over 14 years of age at his school, signed as correct by the Head Master, and showing, against the name of each absentee from the parade, the reason for his absence. These parades will commence from Monday, 9th instant."

This order remained in force for one week.

Six boys flogged at Kasur because they happend to be biggest.

6. In this connection may be mentioned the way in which the students were dealt with at Kasur. It appears that some of the students had taken part in the disturbances, and two of them were identified as taking part in the riots and were subsequently arrested and sentenced. One schoolmaster represented that his boys had gone out of hand. Mr. Marsden, Sub-Divisional Officer, Kasur, suggested and Lieutenant-Colonel Macrae approved that certain boys should be picked out to bear punishment for the whole. Thereupon the head-masters were asked to select six boys and send them. When they were so sent up, they appeared to the authorities to be miserable looking. It was thereupon ordered that all the boys of the schools concerned should be paraded at the station, and the six biggest boys were selected. They were given six stripes each.

Q. Then on the 18th, some school boys were flogged and you gave directions that the biggest six boys were to be selected for that purpose?

A. I said generally speaking take the six biggest. The misfortune was that they happened to be big.

Q. It was irrespective of whether they were innocent or guilty ; because they were big they had to suffer ?

A. Yes.

Q. Do you think that is a reasonable thing to do ?

A. Yes, I think so under certain conditions.

Q. It was a mere accident that a boy being big should invite on himself punishment ?

A. It was his misfortune.

Q. His misfortune was that he was big ?

A. Yes.

Reprisals on propeity of absentees and their relations.

It appears that orders for reprisals against the property of people who had left Gujranwala, Wazirabad and Hafizabad in order to avoid arrest, were issued. These orders threatened reprisals not only against the property of those absconders but also against that of their fathers or nearest relations (see Orders Nos. 28 and 29). The way in which these orders were carried out appears from the following instances. One Jamiat Singh Bugga who was a man of considerable position in Wazirabad and who was paying Rs. 2,000 as income-tax and had done considerable war work for which he had

received official recognition, attended a meeting held on the 14th, in connection with the HARTAL which took place the next day, but does not appear to have taken any part in the demonstrations. It is not known whether he left Wazirabad for some legitimate business or because of the fear of being arrested. It is not known whether the orders for his arrest had already been issued at the time he left. Subsequently when the authorities went to his house and were informed by his son that he was not there, an order was passed by Lieutenant-Colonel O'Brien that the whole of his property be confiscated : and after pronouncing this order, two men were deputed to turn out the inmates of the house and take possession of the property, and several females and children were so turned out and the property was taken possession of. After a few days, Jamiat Singh surrendered himself on the 26th and the property was released about the 4th of May on the application of his son. The following is Lieutenant-Colonel O'Brien's evidence about the matter :—

Q. Then you went there and ordered that the whole property of Bugga be confiscated ?

A. Yes.

Q. And after pronouncing this order, you deputed two men to turn out the men of the house in the Jallianwala Lane and to take possession of the property ?

A. Arrangements were made.

Q. You know that in that house there were four females and six infants ?

A. I do not know that.

Q. Did you not know that the wife of this man and the mother of this man were there ?

A. I presume they would be able to make arrangements for them ; they have lots of friends.

Q. And all these females and children were turned out from the house and the house was taken possession of under your orders.

A. Yes, that is right.

In another case, three brothers had absconded. Not only was their property confiscated, but their father was arrested and his property confiscated. This was at the town of Sheikhupura in the district of Gujranwala. The order passed by Lieutenant-Colonel O'Brien in this case was produced before us and runs as follows :—

" Until the arrest of Amar Singh, Atma Singh, Santokh Singh, sons of Gauhar Singh, the crops of the latter are confiscated to Government. Watch and ward to be put on them and any one cutting them will be liable to imprisonment or to be shot. Gauhar Singh is dismissed from the post of LAMBARDAR. Arrangements to be made for his successor.

Atma's timber shop of Sheikhupura is also confiscated to Government. The brick kiln, etc., of Amar Singh in Hardoi, Sheikhu-

pura and Chuharkana is also confiscated to Government. Any other property that the sub-inspector comes to know of should also be confiscated and a report made to me."

Another similar instance is that of Raila Ram who, it appears from Mr. Bosworth Smith's evidence, was arrested because his son Manga had absconded. It appears that with regard to people who left their places of residence and were wanted, orders were issued prohibiting any people connected with them from cutting the crops in their fields until they returned.

In Kasur, a general order was issued on the 25th April to the following effect:—

"And further also all such residents who have left Kasur on or after the 10th April 1919 will return to Kasur within four days from this date, failing, measures will be taken against their property." Captain Doveton told us that in connection with this order, six houses were visited and opened, and in some cases clothes and vessels found inside were burnt and destroyed.

8. We find that in connection with the activities of the mobile columns that were sent out in the rural areas, in some places they took certain people from villages as hostages. It appears to have been done on fairly large scale. Those people were not themselves guilty of having done anything, but they were taken in order to ensure the good behaviour of their respective village, and for the purpose of creating a general impression and also to put pressure on the villagers to give information about offences that had been committed. Mr. S. M. Jacob, Director of Agriculture, who was associated with one of the mobile columns gives the following as the object of this measure :—

"It was more or less protective, to prevent a recurrence of cutting (of wires), I think that was the idea underlying the orders which directed the taking of hostages."

Q. How was that prevented by taking the hostages ? Supposing there was cutting of wires after you took hostages what was intended to be done to the hostages ?

A. I suppose it is only more or less to impress the villagers that there was such a thing as Government after all, and they had some power. I imagine that was the idea.

Q. When you took hostages, did you tell the villagers why you were taking them ?

A. I told them that I was taking them in order to prevent recurrence.

Q. What impression did you think you conveyed by that ? If recurrence happened, what would happen to these people ?

A. That was left to their imagination.

Lambardar flogged and fined.

In another place he says "As far as I remember they were kept there (in the Police thana) in order to exert pressure on the village

to give information." It appears that Mr Jacob who accompanied Major Braid's mobile column took six hostages from one village. As the Lambardar did not show inclination to help and was unable to give when asked any information as to how and by whom the wire were cut near the village, Mr. Jacob had him stripped naked except for his loin-cloth, bound him to a tree and inflicted 15 stripes on him and fined him Rs. 200 which he collected on the spot. Mr. Jacob admits that he eventually found out that this LAMBARDAR had no information and the cutting of the wires had really taken place at some other place. Mr. Jacob says that he inflicted this punishment on this LAMBARDAR, acting as a summary court-martial. It is difficult to understand this as it appears that the notification nominating Mr. Jacob as one of the officers under martial law was issued only on the 23rd of April, nor does this case find a place in the return of cases supplied to us. A similar case is recorded in the report of Lieutenant-Colonel Bourne who was in charge of one of the mobile columns. In his report dated the 19th April he says as follows :—

"Narwar—The ZAILDAR and LAMBARDAR were present. As they were told the evidence was strong and they denied all knowledge, they were given ten minutes to produce evidence. Failing that I told them I would have them beaten. They refused to give evidence and two LAMBARDARS and four others were beaten by a sowar by my order. I then gave them ten minutes again and as they still refused I arrested the ZAILDAR, two LAMBARDARS and five others and brought them in."

9. Mr. Bosworth Smith, it seems, conceived the idea of erecting at Sheikhupura a building to commemorate the events of April 1919, and it was meant that people would go there and repent for what they had done on the 15th April. The proposed house of repentance has been called 'TOBA GHAR' or 'JAIL GHAR' Mr. Bosworth Smith says about this as follows :—

Q. Did you make any suggestion about erecting any house of repentance ? Did you suggest any TOBA GHAR to be built at any of these villages ?

A. I suggested that possibly good might come out of evil by getting the leading men to subscribe by building a Jail GHAR at Sheikhupura.

Q. Then your idea was that people should go inside that building and repent of what they had done on the 14th or 15th April ?

A. That was the idea.

This idea of Mr. Bosworth Smith, it appears, did not receive encouragement from the higher authorities and did not materialise.

Rs. 3,500 Collected from people for supplying wants of soldiers.

10. It appears from the evidence of Munshi Kirpa Singh, TAHSILDAR of Wazirabad, that about Rs. 3,500 were collected from

the inhabitants of Wazirabad after the declaration of martial law, and the amount was used for supplying the wants of the soldiers stationed there.

Q. During these days was every family taxed a rupee, four or five weeks after the declaration of martial law ?

A. The Malik sahib was in charge of the place and he had ordered this, and this money was collected.

Q. One rupee per family or per house ?

A. Per house.

Q. And how was this money spent ?

A. The soldiers were supplied with things which they required because they had not got ready money with them.

Q. In which week after the 16th of April and on how many days was this money collected ?

A. I do not remember the date.

Q. Was it the month of April or May ?

A. It was in April.

Q. And it was collected in a day or two ;

A. No, it took 10 or 12 days.

Q. What was the total amount ?

A. Rs. 3,500 about.

Q. Through which agency was this collected ?

A. Members of the Municipal Committee.

Armoured Trains and Aeroplanes

Firing from armoured train on the 16th of April not justified

1. It appears that on the 15th of April an armoured train which had machine guns and searchlights, in charge of a British soldier, was sent from Lahore to Sheikhupura. At Sheikhupura Lala Sri Ram Lud, sub-divisional officer, Sheikhupura sub-division, got into the train and proceeded to Chuharkana station. Some of the residents of Chuharkana and other adjoining villages had on the 14th and 15th done considerable damage to the railway lines and the railway station. The armoured train proceeded slowly from Sheikhupura and arrived near Chuharkana station in the early hours of the 16th April. Near the distant signal they found an obstruction placed on the line. After removing this obstruction they were proceeding further when they found men about the line and opened fire ; and one man was killed. The armoured train then proceeded to the Chuharkana station, but none of the rioters were there then. Lala Sri Ram Sud and the military escort got down from the armoured train, and went into a factory where it was suspected that some men were in hiding. Some rifle

shots were fired in the dark with a view to terrify the village people. There were no casualties. On the morning of the 16th, the armoured car proceeded a mile further and pulled up in the vicinity of Chuharkana. It may be mentioned that the Chuharkana railway station is not near the village but near what is known as the Chuharkana market. From this point the machine-gun was fired from the armoured train into the village and later the party seems to have gone into the village and done some further firing. The people in the village, who were thus fired at, were not at that time engaged in any acts of violence and we think that this firing was not justified. We set out below the examination of Lala Sri Ram Sud about this firing.

Q. So you moved your armoured train from the station to a place beside this village and pulled it up there ?

A. Yes.

Q. And then you fired into the village, did you ?

A. I have said in my statement that while we were in the armoured train we noticed the movement of a number of people in the village.

Q. Yes, I will deal with that in a minute. How far were these people whose movements you saw from the train ?

A. So far as the eye-sight could reach—

Q. How many yards from you ?

A. I cannot give the number of yards. It was as far as my eyesight went.

Q. You were on the railway line ?

A. Yes, and I could see the movement of the people.

Q. You were in your armoured train opposite to the village ? The village consits of houses ?

A. Yes, but we discovered the movements of the people on the outskirts of the village.

Q. That is between the village houses and the railway line ?

A. No, on the other side.

Q. There must be several rows of houses, there cannot be only one row ?

A. Yes, but I am speaking of the outskirts of the village. The outskirts could be seen but not the inside of the village.

Q. Where were these people, on the other side or where ?

A. By other side I do not mean a place which I could not see. I mean they were near the village, but on the outskirts of the village, and that I could see them from the armoured train.

Q. Were they between you and the village houses ?

A. No.

Q. Between you and the village houses there was nothing ?

A. No.

Q. Where were these people ?

A. These people were on one side of the village.

Q. What do you mean by other side, do you mean behind the houses ?

A. No, I do not mean that, I mean a side that I could see myself.

Q. They were in some outskirt that you could see ?

A. Yes.

Q. How many were there ?

A. I could see movements of people.

Q. You could not see the people at all ?

A. I could see the people. Some of them could be seen moving on horseback a little further away. I could not give an exact idea of their number.

Q. You must have formed some idea ? You cannot say whether they were 5 or 10 or 100 ?

A. No. I say I discovered movements of people.

Q. You saw the people and you cannot tell me whether there were five or a 100 ?

A. I cannot tell you. There might have been a hundred people hidden behind.

Q. I am asking you about the people you saw ?

A. There were a good many people. They were considerably more than five certainly.

Q. Could you see their faces from there very well ?

A. Yes.

Q. What were their movements ?

A. They were moving.

Q. I want to know what you mean by saying you saw their movements, what movements ?

A. They were not committing any mischief, I do not say that. They were probably in consultation.

Q. They were not committing any mischief ?

A. No, not at that time.

Q. What were their actual movements ?

A. People were coming into and going out of the village.

Q. You did not know what their object was ?

A. As I came to know later their object was to attack us in the armoured train.

Q. Their object was to attack you ?

A. Yes, they were collecting and some were going to call other people.

Q. From looking at them in the distance you made out they were going to call people from the village to attack you ?

A. No, I did not say so. I said I learnt about it later, but we could guess that they were meaning some mischief to us.

Q. It is true that you learnt that afterwards ; I am dealing now with what happened.

A. Unfortunately I cannot eliminate things that are in my brain ; I have to take things together.

Q. What we are dealing with now is what you did at that time and what materials you had then and what was your frame of mind. For that purpose what you learnt afterwards is utterly useless. When you refer to their movements, what were their actual movements ?

A. As I said they were coming and going, I fancied they were collected for some object.

Q. You saw some people going into the village and some people coming out of it and from that you concluded that they were collecting to attack you ?

A. Yes, they were collecting with some sinister purpose.

Q. From the mere fact that some people were going into the village and some coming out at the time, you concluded that they were assembling for some sinister purpose ?

A. Yes, I know what their temper was before. We were still there and they had collected and had not gone into hiding.

Q. May I take it in this way, that because when you arrived in your armoured train they did not go into hiding, you thought they were out for some sinister object ?

A. Not exactly. I knew these men had done mischief, and on the arrival of the armoured train they did not disperse and so as they were still moving about I knew some mischief was intended.

Q. You say these people had done this mischief ?

A. The whole village was there. I could not make any distinction.

Q. You did not make any distinction ?

A. No, certainly not, and as a matter of fact, the whole village was there.

Q. And you considered the whole village to be guilty ?

A. Yes.

Q. And because they were not in hiding and were still showing themselves, you thought you were entitled to fire ?

A. Those people ought to have dispersed in the ordinary course.

Q. Your view was that when your armoured train arrived opposite the village, no villager ought to be seen, is that your idea ? That is what it comes to ?

A. It does not come to that, that no villager should be seen.

Q. When the armoured train came there you noticed certain movements ?

A. Yes, I noticed certain movements and I concluded those movements were intended for some sinister object.

Q. What I want to know is why did you conclude that ?

A. They were not there in the morning ; they had collected then ; why were they there ?

Q. What time of day was this, early in the morning ?

A. It was about 12 or 1.

Q. And your idea was that they had no business to be going out of or coming into the village at that time ?

A. Not going out and coming in. They had some horses with them, why had they these with them ?

Q. These village people should not have any horse at all ?

A. No, but they should not be on their horses at that time.

Q. Your reason for concluding that you must fire was because you saw some people on horses, is that so ?

A. As I say this was one of the factors. Do not take things in an isolated manner.

Q. One of the factors on which you decided to fire was that you saw people on horses ?

A. Yes, some coming and some going.

Q. And you thought these people had no business to be on horses at all ?

A. Not at that time.

Q. And on that you fired ?

A. Yes.

Q. What did you do next ?

A. We went out and saw a number of people and the British soldiers fired, but it did not take effect.

Q. Where did you see them ?

A. On the outskirts of the village.

Q. At the same place as you had seen those people before ?

A. On the same side.

Q. When you saw the people what were they doing ?

A. I cannot say.

Q. You did not notice what they were doing ?

A. I have already said what they were doing.

Q. But you now came near them, you had first seen them from the train ; you had now alighted, did you see what they were doing ?

A. At that time I did not notice what they were doing.

Q. You did not care to enquire what they were doing ?

A. I did not care to enquire.

Q. You at once decided to fire ?

A. Yes.

Q. Why did you decide to fire ?

A. Because we knew they were out for mischief. I had already come to know these men were doing some mischief.

Q. Because you had the fixed idea in your mind that these people were bent on mischief you fired ?

A. Yes.

Q. When you reached near them you did not enquire what they were doing at the time ?

A. No.

Q. Or look at them ?

A. We were looking at them.

Q. You did not care to see what they were doing, you straightaway opened fire at them ? How many shots were fired ?

A. I do not know, some shots were fired.

Q. How many people were killed ?

A. I do not think anybody was killed ; one man was wounded.

Q. And did you do this also to teach the people a lesson and strike terror ?

A. I said to avert that danger.

Q. To avoid the danger of their doing further mischief ?

A. And attacking, and eventually, it was found that they were ready to attack.

Q. After having done this, did you go back to the train ?

A. Yes.

The above extracts show that Lala Sri Ram Sud considered the whole village as guilty and resorted to this firing with a view to inflicting punishment and making an impression. In this connection may be noticed the evidence of Lieutenant Abdul Rahim Khan and Bawa Budha Singh, Executive Engineer, Lyallpur. They arrived at Chuharkana from Lyallpur by an ordinary train. But as the train was unable to proceed further, they were kept in the market by one Iqbal Singh, pleader, for the night. Next morning they boarded another armoured train which had arrived there, and when this train proceeded and arrived near the Chuharkana village, the armoured train in which Lala Sir Ram Sud was, came up from behind and stopped at a distance of 200 yards. Both these witnesses testify to the firing in the village from the armoured train No. 3 and the subsequent firing by the parties that went into the village. The armoured train in which Sri Ram Sud was, then returned to Sheikhupura where he alighted and from there went back to Lahore. It again returned from Lahore on the 17th, and taking Lala Sri Ram Sud at Sheikhupura, went to Chuharkana. There was no firing this time.

2. Then on the 18th the armoured train with Lala Sri Ram Sud again went from Sheikhupura and pulled up near the village of Mahnianwalia. The party went to the village and fired into a crowd of about 25 people found there. L. Sri Ram Sud said that he

did not know and did not see what they were doing but opened fire. We are of opinion that this firing on the 18th was not justified. The action of Lala Sri Ram Sud was intended to be punitive and for the purpose of creating an impression. The following are further extracts from his evidence :—

Q. Where is that village Mahnianwalia ?

A. It is between Moman and Dhaban Singh.

Q. Did anything occur there ?

A. Yes, as both the villages of Mahnianwalia and Pucca Dulla were concerned in the mischief in the case of Dhaban Singh, and had looted that Station, myself and the Officer Commanding took counsel together and thought it advisable that some lesson must be taught to these villagers. Then we walked into the village. I had no occasion to go into Pucca Dulla village, because it is further away. Mahnianwalia is nearer at a distance of one mile. Myself, the Officer Commanding and some soldiers walked together and on the way a crowd that was on the fields was fired upon.

Q. Was that crowd bent on mischief in your opinion ?

A. Yes, the whole countryside was bent on mischief on those days. It was only after this firing had been done that they came to their senses.

Another firing on the 17th of April.

3. There was another case of firing which we think it is difficult to justify. Captain Flowerdew on the 17th April under official instructions came to Chuharkana. He wanted to arrest a person called Ram Singh, but he found that he had left the village of Chuharkana and was near a well two miles away in company of some other people. When Captain Flowerdewe's party proceeded in that direction, Ram Sing's party observing them from a distance of half a mile, ran away. It is not clear whether Ram Singh was among the party. Captain Flowerdew was told in the village that he was. Fire was opened when one of the party was killed. The person killed was not Ram Singh who does not appear to have been traced that day. The fugitive apparently then got divided into two parties. The main party was followed by Captain Flowerdew, and the other party by Sergeant Davies. Sergeant Davies, it is said, came up an armed party, some of whom were mounted ; and Sergeant Davies opened fire and killed four. Captain Flowerdew in his evidence before us said that when Sergeant Davies came upon the armed party one of them fired at Sergeant Davies and thereupon Sergeant Davies opened fire. This attack on Sergeant Davies has not been mentioned in the report made by Captain Flowerdew on the 17th April (which is appendix IX to General Beynon's report of the 5th September 1919) or in any other contemporaneous document. We give below the explanation given by Captain Flowerdew of the omission.

Q .There is one more fact. Neither this report on which you have been examined nor any other thing mentions the fact that anyone fired upon Sergeant Davies ? A. No.

Q. And today you add this statement that one man fired upon Sergeant Davies and upon that he returned the fire ?

A. Yes ; I may explain it. At the time I wrote this report there was no need to prove to anybody that there were riots on. It was a self-evident fact.

Q. Because there were riots on, therefore to your mind it was quite clear that any party of soldiers that would go to any village would be fired on ?

A. No.

Q. The mere fact that there were riots does not necessarily prove that Sergeant Davies must have been fired upon ?

A. I did not refer to it because it was self-evident that there were riots at the time.

Leaving aside the firing by Sergeant Davies, we are of opinion that the firing on the people who left the vicinity of the well on seeing the party of Captain Flowerdew from a distance is difficult to uphold.

Aeroplanes.

4. On 14th April 4 aeroplanes from Lahore visited Gujranwala. One of them dropped eight bombs and also used its Lewis Gun, another only machine-gunned, the third also used machine-gun, and the fourth took no action. In all, 10 bombs appear to have been dropped but two have not been accounted for. The total number of rounds fired by two of the aeroplanes was 980. The total number of casualties was 9 killed by the aeroplanes as given in the Government case ; the number of the wounded by the police and the aeroplanes are not separately given ; but they were in all 27. It appears that Major Carberry in charge of one of the machines first went to Gujranwala and having hovered over it, went to Dulla village. He found there a crowd of 150 people on the road, and, as he says, walking in the direction of Gujranwala. He dropped three bombs on them and when they ran away in the village, he fired 50 rounds of machine-gun into the village. The following extract from Major Carberry's evidence about the incident shows that he was trying to produce a moral effect :—

Q. Those bombs you dropp d on particular crowds that you saw there ?

A. Yes.

Q. Where were those crowds, in the streets or outside the village.

A. They were on the road outside the village ?

Q. That crowd consisted of how many people ?

A. I reported 150, I cannot tell you exactly.

Q. How many miles was this village from Gujranwala ?

A. About two miles north-west of Gujranwala.

Q. What was this crowd doing ?

A. They were going towards Gujranwala.

Q. How were you able to ascertain that they were coming to Gujranwala ?

A. They were walking in the direction of Gujranwala.

Q. And you dropped three bombs at them ? A. Yes.

Q. Then you say in your report that you fired machine gun into the village itself. A. Yes.

Q. That firing was not at any particular crowd?

A. It was at the people on whom I dropped bombs and who ran back to the village.

Q. When you first dropped bombs on a party of 150 strong they began to run away into the village? A. Yes.

Q. And you fired machine gun into the village also? A. Yes,

Q. That was over the houses in the village?

A. I suppose some of the shots hit the houses.

Q. You say that the people when they were fired at began to run away, i. e., after you dropped the bombs they began to disperse and got into some of the houses. That is what they attempted to do? A. Yes.

A. You fired machine gun into the village and threw bombs on those people who took shelter in the houses but there were other innocent people in those houses.

A. I could not discriminate between innocent and other people who were, I think, doing damage or were going to do damage.

A. You say that on 150 people, that were seen there, you dropped three bombs with the result that they dispersed and ran into the village. Was not your object accomplished? Was there any futher need of firing machine gun?

A. The machine gun was not fired indiscriminately. It was fired on the people who were running away.

Q. You fired machine gun into the village?

A. I said the crowd scattered and ran back into the village, and I have said that 50 rounds machine-gun were fired into the village. I fired at the men.

Q. When the crowd split up and there could not be on the spot particular people in the village; they must be running away and entering the houses; then you fired machine-gun into the village which hit the houses in which there were perfectly innocent people?

A. I was at a height of 200 feet. I could see perfectly well and I did not see anybody in the village at all who was innocent.

Q. What I mean, Captain, is this. When you threw the bombs on them they began to run away. Was not your object really accomplished?

A. No.

Q. What was the further need of machine-gunning them and killing them? Your object was to disperse the crowds that had assembled and were attempting to proceed to Gujranwala. The throwing of bombs must have resulted in some casualties. Was there any further need of firing of machine-gun?

A. Yes, to do more damage.

Q. But then the object seemed to be to hit or kill more people in that crowd, although they had begun to disperse and were running away after the bombs had been thrown on them?

A. I was trying to do this in their own interests. If I killed a few people they would not gather and come to Gujranwala to do damage.

Q. Do I take it then, although by the first throwing of the bombs they began to disperse and run away, you still machine-gunned them in order to prevent the possibility of their re-assembling, the idea being to produce a sort of moral effect on them?

A. Yes. Quite right.

Bombs on Gujranwala Khalsa Boarding House.

Then Major Carberry appears to have gone to another village and there fired the machine-gun on 50 people who, he saw, were coming to this village from Gujranwala. According to Major Carberry, he did not see any casualties. Then Major Carberry re-

turned to Gujranwala and dropped a bomb which evidently fell over the Khalsa Boarding House. He further fired 30 rounds of machine-gun into the people in the precincts of this building. Then he dropped two further bombs somewhere about the railway station and fired 150 rounds of machine-gun into the crowds in the city of Gujranwala.

Another aeroplane from Lahore, in charge of Second-Lieutenant Vincent, fired about 25 rounds of machine-gun into a crowd of 20 or 25 near the level crossing. Lieutenant Vincent appears to have flown round the outlaying villages and fired about 700 rounds of machine-gun on small crowds who had, according to him, dispersed and taken cover. This appears from Lieutenant Vincent's statement embodied in the report of Lieutenant-Colonel Minchin, Wing Commander.

We are of opinion that looking to the inherent difficulties in regulating the operations of an aeroplane on a town consisting of a large number of innocent people, the danger of a person in the aeroplane unfamiliar with the town not being able to make out unmistakeably whether any particular people are peacefully engaged or otherwise and the consequent risk of hurting innocent people are so grave that the use of aeroplanes in case of such disturbances is to be deprecated. It is said that when no other means were available of sending relief the use of an aeroplane was the only means that could be adopted. It is difficult no doubt to lay down any general proposition applicable to all conditions, but as we have said above the danger inseperable from the use of aeroplanes for bombing is so considerable that it should as far as possible be deprecated. It appears that two days before these aeroplanes were sent to Gujranwala, there was a dicussion at Government House where Sir Michael O'Dwyer says it was decided that when aeroplanes were to be used they should not drop bombs in any city or thickly populated area because they could not do so with discrimination. The suggestion to send aeroplanes to Gujranwala on the 14th was made by Sir Michael O'Dwyer. The following entry appears in the Government House War Diary :—

"General Staff Officer, 16th Division, asked to send aeroplanes and drop bombs if necessary and a good target presents itself. The opportunity for an aeroplane seems good."

The following entry appears in the General Staff Diary :—

"Private Secretary to Lieutenant-Governor telephoned to me as following :—"Deputy Commissioner, Gujranwala, 12-30. HARTAL still going on, mob active, more expected. Bridges on either side station burnt. 15 Up Passenger stopped by mob. Police force insufficient.

His Honour considers this to be good opportunity for aeroplanes to use bombs as there is little opportunity of hurting friends."

I repeated this immediately to the General Officer Commanding and received orders to send what aeroplanes available."

We are unable to uphold the action of Major Carberry in dropping bombs on the Khalsa High School and on the people in the two villages. It is said that Major Carberry was merely carrying out the orders given to him by Lieutenant-Colonel Minchin which were to the effect that the crowds were to be bombed if in open, and that gatherings near the local villages were to be dispersed if coming or going to Gujranwala. General Beynon's evidence shows that the orders originally emanated from him. He says "I can give you the exact orders. I can remember them fairly well. They were to proceed to Gujranwala and break any gathering found doing damage to the civil lines or station and disperse any crowd within, I think, two miles either proceeding to or coming from Gujranwala. I think so far as I remember these were the orders." We think that the latter part of the order was unfortunate and looking to the evidence of Major Carberry, sufficient discretion was not used in carrying them out. The two bombs that did not explode, by whatever machine they were dropped, were clearly against the instructions not to drop bombs in the native city. That they did not burst was merely an accident and cannot justify the action of the aeroplanes in dropping them. On the evidence we do not think it clear that the bombs which exploded near the level-crossing were dropped from Major Carberry's machine. His action in firing from the machine-gun into crowds in the street of the city we consider excessive.

Aeroplane dropping bombs on the 15th of April.

5. On the 15th of April, Lieutenant Dodkins flew over Gujranwala and its vicinity. He says he noticed about 20 people in a field about 1 mile away from the town of Gujranwala, and he fired at them 148 rounds with a Lewis gun. In a village, half mile west of Gujranwala, he dropped a bomb at people about 30 to 50 in number who were standing at the door of a house. Lieutenant Dodkins says he noticed someone addressing from the door. The 20 people that Lieutenant Dodkins saw were, it appears, not on any road, but in a field, and they were not armed with sticks, and Lieutenant Dodkins says they were doing no work but were standing and talking to one another. When asked how he justified firing at people who were in the field and doing nothing wrong he said "My orders were to disperse any crowd and that gathering of 20 people was a crowd and so I dispersed them." We presume that Lieutenant Dodkins did not in going to Gujranwala on the 15th act on any

specific orders for that is not alleged. He apparently acted under the general orders that were issued to the Royal Air Force. General Beynon's report of the 5th September shows that when information arrived of attacks on railway communications on the 15th and the 13th certain orders were issued to the various units of the military force. Paragraph 36 of the said report says :—"Orders were also issued then to the Royal Air Force that the pilots were to keep a look-out when carrying messages or reconnoitering for any gangs damaging the railways and they were to fire on them immediately." If Lieutenant Dodkins was acting under these instructions, it is obvious he exceeded them. If on the other hand his orders were "to disperse any crowd" without reference to the place where it was and what it was engaged in doing, the authority who gave such an order was wrong in giving such orders.

Courts under Martial Law

The effect of the various ordinances and the notifications by the two General Officers Commanding was to bring into existence the following courts during the period of martial law :—

Exclusion of legal practitioners.

(1) Summary courts presided over by area officers and civil officers authorised in that behalf to dispose of cases under Martial Regulations. Besides all officers designated as area officers, this term included every Officer Commanding a station or regiment, every Field Officer, every Officer Commanding a brigade and all officers appointed by the General Officer Commanding the Lahore Civil Area or by the Local Government. These summary courts had powers to pass sentences of imprisonment of two years, fines up to Rs. 1,000 and also whipping. (2) Tribunals composed of three Judges, which were empowered to try any person who was charged with any offence committed on or after the 30th March. These tribunals tried only major offences in relation to disorders. (3) Summary courts presided over by officers nominated by the Lieutenant-Governor, who were authorised by the notifications of the 5th May 1919, issued by the two General Officers Commanding, to try offences against the ordinary law, arising out of the disturbances but committed before the declaration of martial law. These notifications laid down the following limitations to the exercise of powers of those summary courts, namely that these courts (a) shall take cognizance only of cases sent by the police ; (b) shall not try any person for an act

which is not an offence under the ordinary law ; (c) shall not try any person for an offence exclusively triable by a Court of Sessions ; (d) shall not pass in respect of any offence any sentence which is not authorised by the ordinary law for that offence ; (e) shall not pass any sentence which could not be passed by a First Class Magistrate. The legal sanction for constituting the last class of summary courts with powers to try offences against the ordinary law committed before the proclamation of martial law and for clothing them with retrospective powers is not very clear. General Beynon seems to think that he derived the power from the ARMY ACT. We think, however, that it is beyond our enquiry to investigate this point and express any opinion on it. We think that the trial of people who were not arrested for and charged with taking any part in the actual disturbances by special tribunals was unwise. People like Drs. Kitchlew and Satyapal who had already been deported before the actual disturbances took place and people like Lala Har Kishan Lal, Pandit Rambhuj Dutt Chaudhri and Lala Duni Chand who were not charged with taking any part in the disorders of the 10th and subsequent dates, but were tried for having by their previous acts and speech been guilty of sedition, should have been left to be dealt with by the ordinary courts. The course adopted was calculated to create the impression that they were prejudiced in getting a fair trial. The manner in which all legal practitioners of their choice were prevented from conducting their defence necessarily heightened that impression. It appears that Lala Har Kishan Lal and others were brought to Lahore about the middle of May, were arrested for the offences with which they were charged and the trial was begun in a day or two afterwards. They engaged legal practitioners from Calcutta, Bombay, Allahabad and Patna but were denied their assistance. This was brought about by an order issued on the 14th of May in identical terms by the General Officers Commanding the 16th (Lahore) and the 2nd (Rawalpindi) Division respectively :—

"Notice is hereby given to all people concerned that legal practitioners whose ordinary place of residence is outside the Punjab will not be allowed to enter the martial law area without the permission of the martial law administrator."

The issue of such orders on the eve of their trial had all the appearance of depriving these people of the assistance of the counsel of their choice. It appears from Mr. Thompson's evidence that the idea of excluding outside counsel orginated with the Punjab Government, and they suggested it to the military authorities. The reason for the suggestion was "the desire to prevent the disturbances of the political atmosphere now rapidly cleared by outsiders whose main purpose would not improbably be the revival of agitation under the

protection afforded by the court." Mr. Thompson admitted that this objection was inapplicable to all lawyers who had applied for permission to defend the accused. In fact, however, all lawyers were refused permission. General Beynon said that this was not the reason for which he issued the orders against the legal practitioners. According to him the reason was that it was not necessary to have these lawyers in, and that he did not want to have to keep an office to deal with applications. General Beynon said :

"My intention was that it was not necessary to have all these people in. They were not an advantage to me. That is how I looked at it from the military point of view." In another place he said, "I daresay I looked at it from the military point of view and it was not necessary from the military point of view that those gentlemen should enter the area."

Q. What was the reason that you considered their presence unnecessary
A. Because their presence was not considered necessary."

The suggested reason with regard to keeping an office for dealing with numerous applications is not sound. There was an office which was dealing with application for permits of various descriptions and was issuing them in large numbers. Moreover neither before nor after this order there were any appreciable number of applications from lawyers. In fact, in a note supplied by the Punjab Government the number of applications before the 14th May are only two, one is on the 14th and eight on subsequent days. The form in which the order was made was really calculated to result in the military authorities having more applications to deal with. It appears that at one time the trial of Kali Nath Roy, the editor of the "Tribune," was actually postponed by the Tribunal for enabling Mr. Eardley Norton to appear for him. Then at a later stage Mr. Norton was prohibited from coming by an order to that effect made on the 11th of May.

Mr. Andrews, who was deputed by certain papers as their representative, was also refused entrance into the Punjab. By these orders of exclusion the Punjab Government laid themselves open to the suggestions, that their desire was to prevent outside people from knowing what was happening in the Punjab. Mr. Thompson denied emphatically, disclaimed any such intention, and said that they had called a representative of the INDIAN MIRROR of Calcutta at Government expense and sent him round with Indian officers for the purpose of publicity work. The contention put forward that by this order the accused were placed in no worse position than they would have been in if they had been tried before the High Court at Lahore, because that court had the discretion to refuse permission to an outside practitioner to appear and that in all probabity that court

would have refused permission is, in our opinion, not sound. The examination of Mr. Thompson on this point shows that the information subsequently gathered as regards the precedents in other courts were somewhat misleading. We venture to think that no High Court would have in the exercise of its discretion refused permission for an outside counsel to appear for an accused charged, as the accused were in this case, with the heinous offense of waging war which would expose them to the death penalty.

"Fancy" Punishments.

2. The evidence shows that Captain Doveton acting as an Area Officer, gave what have been described by Mr. Marsden, S. D. O., Kasur, as "Fancy Punishment."

In a number of cases, he ordered people to be taken to the goods-shed to load and unload bales for a day or two. In the case of those who were so ordered to work for a day, they were alowed to go home for the night on depositing some of their belongings as security for their returning the next morning. We think this, in effect, amounted to rigorous imprisonment while they were so at work in the goods-shed. This is what Captain Doveton says :—

Q. The work that these people were made to do was no easier than the work which the prisoners in jails under rigorous imprisonment are made do?

A. I did not intend it to be.

Captain Doveton says that in case of individuals who were truculent and defiant he awarded this punishment in cases where the railway had any thing to recover from them. Captain Doveton says in his report as follows :—

"Shortly after the raising of martial law from the city there was a noticeable influx of a type of individual whose attitude towards authority was not a good example for the people of Kasur, many of these being not merely truculent but openly defiant. One heard such expressions as "HUKAM KYA CHIZ HAI," "HAM KO HUKAM NAHIN JANTI."* Unless there was some tangible offence it was unfortunately impossible to deal with such persons, but in cases where the railway had anything to recover from them they were sent to do work in the goods yard equivalent to the amount to be recovered from them in the event of their being unwilling or unable to pay."

"In view of the fact that this particular station had been the scene of the murder and unprecedented violence a short time previously similar treatment was meted out to all persons who threatened railway officials or made a show of violence to them, by way of pointing out that the station was Government premises and that they should be regarded as such."

* "What is an order? I don't know any order."

These punishments have not been shown in the usual return of cases.

Compelling people to put their foreheads on the ground.

3. Captain Doveton explains that he treated these as minor punishments and inflicted them in case where the ordinary martial law punishments were unsuitable. It is difficult to accept the description 'minor punishment' as regards the orders to the work of loading and unloading in the goods sheds for a day or two. Then Captain Doveton compelled all people who were convicted by him of any offence to put their foreheads on the ground, irrespective of the nature of the offence. Captain Doveton gives the following reason for adopting this course :—

Q. What was it intended to accomplish, this order about their putting their foreheaps on the grounds ?

A. To the People of that place there was no such thing as authority and every body was his own master. The main object was to impress on the people that every body was not his own master and they had got to conform to order.

Q. Was that nos sufficiciently brought home to them by the convictions and sentences that you inflicted this on them in addition ?

A. I thought it was suitable.

We think it was unwise to have made people thus put their forehead on the ground. They must have felt it as a humiliation.

Flogging.

4. The following are the figures of the sentences of whipping inflicted in the five districts under martial law, ranging from 5 to 30 :—

(a) Lahore	80
(b) Kasur	79
(c) Chuharkana S. D.	10
(d) Gujranwala	24
(e) Amritsar	32
(f) Gujrat	3
(g) Lyallpur	Nil

This makes the total of 258. It does not include the flogging inflicted on the six boys at Kasur and flogging inflicted on the six persons under trial for the attack on Miss Sherwood for the breach of Fort discipline. It also does not include any flogging resorted to when the mobile columns visited the various villages. The normal procedure adopted was to strip the person to be whipped and to tie him to a frame-work and then lash him. It appears that a marriage party in Lahore Civil Area were arrested because they were more than ten in violation of the Martial Law order No. 1 and some of them were flogged. The area officer in passing sentence on one of them made the following record. "He is young. Flogging

will do him good." Lieutenant-Colonel Johnson stated before us that this case was regrettable and that when he heard of it, he had the powers as summary court-martial of that officer taken away. It appears that the flogging in the beginning was done publicly ; but after the 19th April or thereabout it was carried out in Lahore in Jail. Sir Michael O'Dwyer says that the Viceroy had written to him on the subject and he replied to him on the 21st of April to the effect that he had told the military authorities that it was very undesirable to have public flogging. Lieutenant-Colonel Johnson and General Beynon told us that the Commander-in Chief advised them to discontinue public flogging. Sir Michael O' Dwyer in his evidence before us expressed the view that he did not think that there was really any harm in having on the first day a few public floggings which would make the people realise that law was re-established and people who had infringed the law must accept some chastisement. Although instructions from higher quarters, as stated above, had the effect of stopping public floggings in Lahore,in outside places it was not wholly discontinued. At Kasur a railway employee was flogged on the railway station on the 25th April and the sentences of whipping inflicted by Mr. Bosworth Smith of the Sheikhupura sub-division used to be carried out in the court compound after the rising of the court. Mr. Bosworth Smith explained that his court was held at the canal bungalow which was outside the town, and that the only people present would be the accused persons and the witnesses in other cases before him. He therefore said that the place "was not altogther private, and it was not public." Sir Michael O' Dwyer says that when he discovered that flogging was being carried out comparatively freely he spoke to the military authorities on the 19th April. Up to that time, Sir Michael O'Dwyer said only 12 floggings had been carried out. Apparently this had not much effect on the martial law administrator for it appears that as many as 68 sentences of whipping were subsequently passed in the Lahore Civil Area itself. This is not surprising as Lieutenant-Colonel Johnson told us that in his view, when the civil population runs amuck, if I may say so, as in this case, it is the only method by which you can deal with it." Sir Michael O' Dwyer says that after he had called Lieutenant-Colonel Johnson's attention on the 19th April, he had no reason to think that the sentences of flogging were in any way excessive. But in view of the figures given in the beginning of this paragraph we think that Sir Michael O' Dwyer was under some misapprehension. The sentences of flogging were attempted to be defended before us on the ground that it was the most convenient and speedy way dealing with offences under martial law, and that it was the ordinary punishment inflicted in the Army.

General Hudson, however, told us that for the last two years or so the Commander-in Chief has issued executive orders to the effect that no corporal punishment should be inflicted without getting sanction from the Army Headquarters and that although flogging is in the list of punishments in the Indian Army Act, it has been placed somewhat on the different footing by the executive orders above referred to. There is also considerable repugnance to the punishment of flogging as it is humiliating in its nature and in India for some time there has been considerable agitation in favour of the abolition of whipping as a punishment under the criminal law. Under these circumstances, we think that it was unwise to have resorted to flogging on a scale on which it was done and that this measure must have resulted in bitterness of feeling.

Trials Before Summary courts.

5. It appears that the cases of the breach of Martial Notices and Orders were not many and did not occupy the time of any of these courts for any appreciable time. The vast majority of the cases dealt with by these courts were in respect of offences committed between the 30th March and the date of the proclamation of martial law. In the Martial Law instruction No. 3, dated the 25th April 1919, in the Sialkot Brigade Area, it is provided by paragraph 12 that an evidence will be taken on oath and a very brief precis of evidence and the accused's statement submitted on or with Form No. 5

We are informed that these summary courts were bound by these instructions. The procedure prescribed conformed neither with that prescribed under the Indian Army Act nor with that prescribed for summary trials under the Criminal Procedure Code. These courts were empowered to award punishments up to imprisonment for two years, fine up to Rs. 1,000 and also whipping; and it appears that they tried people for serious offences under the Defence of India Rules and for making seditious speeches and enforcing HARTAL. Their decisions were not open to appeal. Under the circumstances it was incumbent that the trial should be so conducted and the record so kept that there might be no room for any suggestion of prejudice. In the form above referred to, column No. 5 is headed "Witnesses and brief circumstances alleged against accused," and column 6 is headed, "Brief statement of witnesses for defence and statement by accused" and column 7 is headed "Finding." We had produced to us the records of these trials and a careful examination of them revealed to us the following in a comparatively large number of cases :—

(a) Column 6 was absolutely blank.

(b) The whole form appears to have been filled in by some clerk and initialled by the presiding officer in the last column.

(c) Under column 7, "Finding," only guilty or not guilty is mentioned. This has been done even in cases where a great number of prosecution witnesses and a large number of accused were under-going a trial for a serious offence.

(d) Offences such as cheating, perjury, false personation, adultery, etc., evidently not in any manner connected with the disturbances, were tried. They were swept in under clause 15 under the Matial Law Proclamation as acts which were to the prejudice of good order and and public safety.

The impression left on us is that these trials do not appear to have been conducted as satisfactorily as one would desire. We must say that some of these officers who presided over these courts appeared before us as witnesses but as that time we had not before us the records of these cases we were unable to put the above facts to them and hear their explanation.

Arrests under martial law.

We are unable to concur in the conclusions of the majority regarding arrests both by the military and the police during the period under review. People seem to have been arrested on mere suspicion and kept in custody for considerable periods. Some of them were never brought to trial, and others brought before the court had to be discharged because there was absolutely no evidence against them. We think that it was a very unsatisfactory feature that people were kept for many days under arrest without being brought before a court and remanded, and facilities for bail were unnecessarily curtailed, even with regard to bailable offences.

It appears that Lieutenant-Colonel O'Brien said that before the introduction of martial law he arrested certain leading people at Gujranwala and added that why he made those arrests was that such arrests were likely to have most good effect. He also made similar arrests at Wazirabad on the 16th and at Sheikhupura on the 19th April. He says, in none of these cases warrants were issued for their arrests and that they were arrested under the Defence of India Act. It appears that Lieutenant-Colonel O'Brien was not appointed an area officer under General Beynon's Proclamation of 19th April until the 23rd April, and notification of the Government of India empowering the District Magistrates in the Punjab to make arrests under the Defence of India Rules did not appear till much later. Lieutenant-Colonel O'Brien says that he had a conversation with the Chief Secretary over the telephone and he was given to understand that if he took action hurriedly it would be legalised afterwards if it was done in good faith.

We do not propose to enter into any detailed examination of these cases but give below certain illustration as examples :—

The following proceedings with regard to certain people arrested by the flying column in charge of Lieutenant-Colonel Bourne are given below :—

Present as below :—

I. Sahajpal village—

1. Jalal.
2. Barkat.
3. Peer Baksh.
4. Mehtab.

Arrested by Colonel Bourne on 16th April 1919, who says "No direct evidence but it (Sahajpal) is near the place where grass farm stacks were burnt."

Police Report "No evidence, should be discharged." The four men are accordingly discharged and released from custody. After it has been explained to them how wrong it was for people to attend to false reports and bad advice, etc.

II. Narwar village—

1. Saman Singh (lambardar).
2. Bahadur Singh ,,
3. Radha Singh,
4. Boota Singh,
5. Hukam Singh,
6. Devi Chand.

and five others (not brought up by mistake).

Colonel Bourne says : The crowd who burnt the station came from the direction of Narwar.

Colonel Bourne asked the Ziadar and lambardar Narwar of who denied all knowledge of who burnt railway station and to produce evidence as to the culprit, they failed to do so and were arrested with others named above.

The police report as regards these Narwar men "not wanted. No evidence. Village has been fined."

I accordingly discharge the Narwar men present to-day and release them from custody after admonishing them as in the case of (I).

I may note Narwar is fined Rs. 15,500 (half a year's revenue) by the G. O. C. Brigade on 21st April 1919,

The fine was paid on 24th April 1919.

Sanke village—

1. Veer Singh.
2. Chanchal Singh.

Sanke is a village in the neighbourhood of Wagha railway station (3 miles) was by the G. O. C, Brigade fined Rs. 300 on 21st April 1919. Fine paid on 24th May 1919.

Police say no evidence, should be dismissed. I accordingly discharge both these men and release them from custody after speaking to them as to others.

LAHORE CANTONMENT. F. SPENCER,

15th May 1919. Cantonment Magistrate and Area Officer.

These persons amongst others were arrested on the 16th or 17th of April and were released from custody on the 15th of May (practically after one month).

7. Similarly we may draw attention to the arrests of Dr. Kedar Nath Bhatia and Sardar Gurdial Singh at Amritsar and of Dr. Manohar Lal at Lahore. On the materials before us we cannot avoid the conclusion that there were no sufficient grounds for making these arrests. Dr. Kedar Nath, an old retired Assistant Surgeon, occupying considerable position in Amritsar, was arrested and hand-cuffed and kept under arrest for about a month, but without being brought to trial. Similarly Dr. Manohar Lal, a Barrister-at-Law of standing in Lahore, was arrested apparently because he was one of the trustees of the paper the "Tribune"; he was arrested and hand-cuffed and kept in the Lahore Jail for about a month, and released without being brought to trial. Mr. Gurdial Singh, a Barrister at Amritsar, at considerable risk to himself, did his best to prevent the crowd from getting unruly at the railway footbridge at Amritsar. Mr. Miles Irving acknowledged his services before us. It appears that he was arrested and at his trial Mr. Miles Irving gave evidence, testifying to the creditable part he had taken in assisting the authorities and he was discharged. Mr. Miles Irving said to that "I think people rather laughed at him. What he afterwards said to me was 'they are all laughing at me because I have done my best for you and all I have got is to be arrested.'" At Gurdaspur about eight pleaders were arrested and kept in custody for nearly six weeks and were then released without being brought to trial. In all 789 persons were arrested, who were never brought to trial.

8. It may be noticed that the sentences passed by the Martial Law Commissions were considerably reduced by Government. Out of 108 death sentences, only 23 were maintained and the remaining were commuted to transportation in some cases and in the rest to sentences of imprisonment going down to one year. Out of 265 sentences of transportation, only 2 were maintained, 5 were commuted altogether, and the rest were commuted to imprisonments varying from 10 years to one year. There is a great disproportion between the original sentences and those to which they were commuted and this gives ground for the suggestion of initial severity that has been made.

JAGAT NARAYAN.
C. H. SETALVAD.
SULTAN AHMED.

Punjab Disturbances
In the House of Commons.

June 1920

Mr. Gwynne asked the Secretary of State for India whether Sir Michael O'Dwyer communicated day by day with the Government of India concerning the various outbreaks in the Punjab and the measures taken by General Dyer to deal with them ; whether this information was submitted forthwith to the India Office ; and and if not, for what reason?

Mr. Montagu : I received daily telegrams from the Government of India from the beginning of the disturbances up to the middle of May. These telegrams embodied the reports of the Punjab Government and, as I have already stated, were all, except two important messages, communicated to the Press here. General Dyer was in charge in only one area, and there was no mention of him by name in those telegrams, and only one mention of him as General Officer Commanding, Amritsar. Some movements of troops that were under his command are also reported in those telegrams.

Mr. Gwynne : If the right hon Gentleman was receiving these communications daily from the Government of India, will he say why he stated in December that he knew no details except what he read in the newspapers?

Mr. Montagu : There has been a great deal of misunderstanding on the point. I can assure my hon. Friend that what I said then was true. I was referring to a question put by my right hon. Friend the Member for Peebles (Sir D. Maclean) on the publication of General Dyer's evidence in the newspapers. I then stated that I had published reports on the occurrences as I received them. If my Hon. Friend will look at it, he will see that the matters dealt with in the published newspaper evidence of General Dyer were not covered in this report.

Lieut. Colonel Sir F. Hall : Does the right hon. Gentleman think that the manner by which this gallant officer has been treated is likely to assist officers in general in dealing with outbreaks?

Mr. Speaker : That does not arise out of the question.

Mr. Palmer : Is it not a fact that the right hon. Gentleman actually told the House that he knew nothing of these occurrences, and that he would wire for information in regard to them, and left

the impression on us that he was entirely ignorant of the whole business?

Mr. Montagu: Perhaps the hon. Member will be good enough to look at the Official Report on the question and supplementary question I answered. Perhaps he will look also at the speech I made immediately after the occurrence, and the telegrams which resulted. I think then he will be in a position to take part in the Debate.

Mr. Gwynne: Is the right hon. Gentleman aware that he stated on 16th December: 'I thought I said I knew no details until I saw the account in the newspapers.'

Mr. Montagu: Every report I had received from the Government of India, with the exception of these two telegrams, was published. That is true. The occurrence to which my right hon. Friend drew attention was the details of the shooting by General Dyer at Amritsar. I had no information on that subject.

Lieut. Commander Kenworthy: Did the Government of India keep the right hon. Gentleman fully informed of events or did the telegrams hush up the most important part of the account?

Mr. Montagu: A great deal of this unfortunate controversy has arisen because there is an impression that I was accusing the Government of the Punjab or the Government of India of concealing facts. I never made such an accusation, and I am prepared to defend their conduct in awaiting the Committee's report.

Mr. Gwynne asked the Secretary of State for India on what date he first interviewed Sir Michael O'Dwyer in regard to the outbreaks at Amritsar and discussed General Dyer's action; and whether at any time he interviewed Miss Sherwood, who was assaulted durfng the riots, and, if so, when?

Mr. Montagu: The answer to the first part is, I think, on the 30th June, 1919; to the second, yes, on the 7th October, 1919.

Mr. Gwynne: Will the right hon. Gentleman explain how it was that he was able positively to state in December, if he knew from detailed information, both from Sir Michael O'Dwyer and Miss Sherwood in June, "I said I knew no details until I saw the report in the papers." If he sent the report to the papers he must have known it before he saw it in the papers. Is that a correct way of giving information to the House?

Mr. Montagu: I suggest that the hon. Member's question shows the wrong-headedness of the whole thing. Miss Sherwood could not possibly have given me any information of what General Dyer did because this gallant lady had been attacked long before all these incidents occurred. If the hon. Member wishes to accuse me of giving false information or making a statement which is not true

perhaps he will raise the point in Debate, when I shall have an opportunity of answering him.

Mr. Gwynne: I shall have great pleasure in asking the right hon. Gentleman to explain how it is he is able to say he knew nothing at all of any details when he had seen Sir Michael O'Dwyer and had all the details from him six months before.

Mr. Palmer: Does the right hon. Gentleman suggest that he knew nothing of the Amritsar shooting until he read it in the *Daily Express*?

Mr. Montagu: No, I never said so. The fact that there had been shooting at Amritsar was known to me and was published to the world when occurred in the telegrams I received from the Government of India. What I said in December and what I say now, is that I had no information as to the details, shooting without warning, and shooting to the exhaustion of ammunition, and the principles upon which General Dyer acted, and so forth. Those things came to me as a shock when I read them in the newspapers.

Sir W. Joynson-Hicks: When the right hon. Gentleman saw the Lieutenant-Governor of the Punjab, why did he not, in June and at that interview and other interviews, ask him for full details?

Mr. Montagu: I can answer that much better in Debate, and I should prefer to do so. I have many most important private interviews at the India Office, and it is very difficult to keep in one's head a year after exactly what occurred, but I think I can satisfy the House, if not the hon. Member, that everything I have said is absolutely true.

Mr. Remer: Will the right hon. Gentleman publish the account which Miss Sherwood gave him before the Debate takes place?

Mr. Montagu: How can I do that six months after I had the private interview with Miss Sherwood, of which no record was kept? The step I took about Miss Sherwood, if the hon. Member wishes to know, was to tell, I think, two important London newspapers that Miss Sherwood was in London, and that it would be a good thing in the public interest if she were interviewed. I do not know what other steps I could have taken.

On June 25, 1920 Brig.-General Surtees asked Mr. Montagu if, before the House discussed the affairs of the Punjab, he would lay upon the table copies of all memorials, protests, and declarations sent by Anglo-Indians to the Viceroy and himself regarding General Dyer.

Mr. Montagu replied that the only message of the kind he could trace was as follows:—

"Cablegram from the European Association of India Received in London, 9th June 1920—

'The Council of the European Association expresses indignation at the despatches of the Secretary of State and the Government of India on the Hunter Committee's Report. The Council consider the situation in India from 1918 onwards to be much more dangerous than is indicated by that Report, and consider that the Government of India and the Secretary of State have subordinated justice to political expediency. They consider that General Dyer was absolutely justified at Amritsar in considering the whole situation in India and that therefore the doctrine of minimum force does not apply ; that General Dyer's action stopped a revolution ; that the refusal of Government to support its officers is destructive of sound government and will place all officers in an impossible position in any emergency in which responsibility has to be undertaken. The Council asks, therefore, that General Dyer should be exonerated from all blame, and should suffer no loss of rank or emoluments, and that Government's proposal to punish the officers who suppressed the rebellion shall be abandoned."

On June 28th Sir Frederick Hall asked the Prime Minister if, in view of the conflicting statements that had been made as to the extent and nature of the information furnished to the Secretary of State for India by Sir Michael O'Dwyer and others with regard to the occurrence at Amritsar in the spring of 1919 and the dates at which such information was given, the Government would appoint a Select Committee of the House to inquire into the matter and to report after taking all available evidence.

Mr. Lloyd George replied that he saw no reason for the appointment of such a committee. The matter could be brought up in Debate.

On June 30th Mr. Rupert Gwynne renewed the attack on Mr. Montagu by asking him whether the Punjab disturbances in general and General Dyer's action at Amritsar in particular, were debated at length in the Legislative Council at Simla during September 1919 ; whether reports of these debates were received by him, and if so, on what dates.

Mr. Montagu : The answer to the first part of the question is in the affirmative. Many allegations were made by non-official members to which the reply of Government representatives was generally that these were matters on which judgment should be suspended till the Committee had reported. The debates were received in two parts on the 5th and 12th November.

Mr. Gwynne : Will the right hon. member say how, if that is the case, he could still state in December that he had no information on the subject of Amritsar except what he read in the papers.

Mr. Montagu : The hon. member still persists in misquoting. What I said on the 15th December was that I had no details of these

occurrences, not that I had no knowledge whatever. I have given accounts to the House. If the hon. member suggests that on reading the allegations of hon. members of the Legislative Council of India, I should have communicated those as authentic to the House whilst there was at that moment a Committee of Inquiry sitting, I venture to differ from him.

Sir Richard Cooper: Will the right hon. gentleman say how he was able to state positively that he had no information of the details when he had read the full account and that the discussion in the Legislative Council was a false discussion?

Mr. Montagu: I cannot carry on a debate at Question Time but what I said was that I had no knowledge of the details of the occurrences.

Lieut.-Colonel Croft: Was not the right hon. gentleman shocked?

Mr. Montagu: Certainly I think the words I used were that the evidence as reported in the newspapers was profoundly disturbing. I think those were the words.

Mr. Palmer: You said "shocking"

Mr. Montagu: Well, I accept "shocking." I had no knowledge whatever that General Dyer had made those statements that he was reported to have made until I saw the account in the papers.

Mr. Gwynne asked the Secretary of State for India whether Sir Michael O'Dwyer informed him at his interview on 30th June 1919, that General Dyer had ordered his troops to shoot on the prohibited meeting at Jallianwala Bagh without further warning than that already given by him by Proclamation causing death casualties to the then estimated extent of 200 persons?

Mr. Montagu: So far as I can state with certainty the details of a conversation which took place a year ago, I am confident that nothing was said about warning. The casualties as ascertained at the time had already been published.

Mr. Gwynne: Is the right hon. Gentleman aware that Sir Michael O'Dwyer stated positively that he told the right hon. gentleman all the details, and he found he was then so well informed, and knew them as well as he did, of the shooting, and the casualties and the firing, and the crawling order; and is he also aware that Sir Michael O'Dwyer wrote to him on 13th December of last year directly he saw the accounts in the papers that the right hon. Gentleman said he knew nothing about it and of the details?

Mr. Speaker: The hon. Member has put a fresh series of statements and I think he ought to give notice of them.

Dr. Murray asked Mr. Montagu: Do all these questions not show that the time has come when the Debate on Amritsar should

take place to settle all these things, and can he not say when it will take place?

Mr. Montagu: The sooner it comes on the better I shall be pleased. I understand that General Dyer's statement to the Army Council is expected in the War Office to-day, and therefore I confidently hope it will be possible to hold the Debate next week.

On July 1st, 1920 Mr. Bonar Law announced that Thursday week, i.e., July 8th had been set apart for the Debate on the Vote for the Secretary of State for India. Members wanted two days, one, a Supply Day to discuss the Administration of India on the Vote for Sec. of State for India, and another specially for the Amritsar Debate. This the Leader of the House could not promise.

On July 5th Mr. Palmer (*by Private Notice*) asked the Secretary of State for India whether, in view of the forthcoming debate on the shooting at Amritsar, he would be willing to include on a White Paper the letter of Sir Michael O'Dwyer dated Delhi, December 30th, 1919, and his letter marked "private and confidential," which was sent in reply.

The Secretary of State for India replied: I do not think it is necessary to issue a White Paper. I propose, however, to circulate with the letter of the 30th December, 1919, and the reply which I caused to be sent by telegram through the Viceroy on the 2nd February, 1920. As the name of Sir T. Holderness has also been mentioned in this controversy, I propose to add with his permission a letter which he addressed to me on the 30th June last.

Mr. Palmer: Will the document include the letter marked "private and confidential"?

Mr. Montagu: I think that the Hon. Member is under a misapprehension. There was no letter. It was a telegram addressed to the Viceroy marked "private and personal".

Sir W. Joynson Hicks: Will the right hon. Gentleman add to these papers the report of the Brigade-major, which has been referred to all through the Hunter Commission, but has not been published in the papers so far as I can gather?

Mr. Montagu: I do not think that I can promise to publish any special papers in answer to a question asked without notice, but if a question is put down tomorrow I will answer it.

The following are the documents referred to:

Sir M. O'Dyer's Letter to Mr. Montagu

Army in India Committee,
Delhi, 30–31 December, 1919.

DEAR MR. MONTAGU,

Since I wrote last week Reuter has been cabling summaries of the discussion in Parliament of the Punjab disturbances. I enclose one of these dated London, 16th December, which reports the Secretary of State as saying *inter alia*, "he did not know the details (of the Amritsar occurrences) until he saw (the) reports in the newspapers." That telegram has led many people here to ask me if, when I reached England at the end of June, I took any action to inform the India Office of the position at Amritsar and elsewhere. The Press here, too, has been asking whether Meston and I, when we got home did anything to explain the situation in India.

At the time I got home I probably knew as much about the Punjab situation as any one in India or England, and I would not like you or any one else to think that I kept anything back. You will remember that you were good enough to give me two long interviews on 30th June (two days after I arrived), and on 24th July (those dates I get from my diary), a few days before I left town. On one or both of those occasions we went over all the main facts of Dyer's action at Amritsar, and the impression I then formed was that the India Office knew as much about all the material facts as I did.

I have a distinct recollection (though my diary is silent on this point) that at our conversation of 30th June I brought out the fact that Dyer, on 13th April, having already formally warned people that he would disperse any gathering by force, did not think it necessary to give any further warning to the gatherings which assembled an hour or two later in defiance of his proclamation. I certainly explained then that two British police officers were with him when he fired and that the District Magistrate thinking a gathering in defiance of the proclamation impossible, had gone off to look after the 80 panic-striken women and children who had been collected in the Fort for safety after the murder of Europeans on the 10th. I also said that Dyer's rough estimate of the death casualties was 200; but my memory was not clear as to whether he had fired 1400 or 1600 rounds.

The question of Dyer's so-called 'crawling' order was not discussed. I said it was quite indefensible, that I had asked for its cancellation directly I saw it, and so had the Commander-in-Chief, and my recollection is that you told me you had gathered this from copies of my letters to the Viceroy which he had sent on to you. After leaving you on the 30th June I went on to see Sir T. Holderness, and a few days later I saw Lord Sinha. I endeavoured to explain to them, as clearly as I could, the whole situation in the

Punjab, and especially in Amritsar. I gathered from them also that India Office was already in possession of all the main facts though in some respects I was able to offer further explanation, *e. g.*, as to the necessity of sending aeroplanes to Gujranwala, the exclusion of legal practitioners, and the treatment in gaol of the Editor of the *Tribune*, regarding which Lord Sinha had received many letters and telegrams. Possibly Reuter's summary, as quoted above, may be giving to us here an incorrect impression. But, in any case, you will, I am sure, forgive me for trying—perhaps needlessly—to make it clear, that I endeavoured to put the Secretary of State and the India Office in possession of such knowledge as I had. You may remember too, that I stated to you on the 30th June, a fact which was not perhaps mentioned in the telegrams from India and may not have been reported at the time, that the aviator at Gujranwala, on the 14th April, seeing the English Church in flames had, very wrongly, dropped a bomb close to a mosque in the town, but, fortunately, it did not explode. In writing all this I am less concerned with my own responsibility in the matter than with how others may be affected by any misunderstanding or obscurity.

Dyer, at the first interview I had with him (on the 16th April), told me everything about the Amritsar events on 13th April as frankly and as fully as the limited time I could spare him—when there was rebellion all round—allowed. I did my best to repeat his version, with my own comments to you and others of the India Office on the very first opportunity. If I did not do so fully or clearly enough then the fault is certainly not his, but rests either with me or with those who were questioning me. But, as I have said above, there was even as far back as 30th June, little room for doubt as to the substantial facts, namely, the circumstances in which he opened and maintained fire on the prohibited assembly on the 13th April, covering death casualties which, at the time, he estimated roughly at 200 but which up to date inquiries put at 379.

Yours sincerely,
(Sd.) M. F. O'DWYER.

Telegram from the Secretary of State for India to the Viceroy, dated 2nd February, 1920.

Private and personal,—Following for O'Dwyer. I have received your letter of the 31st. December. Of course, I need hardly say that in the House of Commons I was not referring to conversations of which no record is kept and which cannot be a substitute for official information, nor did I make any complaint; indeed, I explained, and have explained frequently since, that I thought it was

quite natural that I should have received no detailed information. Let me say that I certainly do not hold you in any way responsible. I have no recollection of, and such notes as I took do not contain, any statement about the two British police officers. But in any case the details I was referring to were these : That Dyer is reported to have stated in his evidence that the crowd might have dispersed without his firing on them, that he fired without warning, and that he stopped firing because his ammunition was exhausted. I do not remember that you ever dealt with these things.

Letter of Sir W. T. Holderness

30th June, 1920.

"Dear Mr. Montagu,

As I am mentioned in Sir M. O'Dwyer's letter of 8th June' which appeared in the Morning Post of 9th June, (*for this letter See P. 251*) as one of the officials of the India Office who were fully informed by him during the summer of 1919 of the disorders which had occurred in the Punjab in April of that year, and in particular of the circumstances of the action taken by General Dyer to disperse the crowd assembled in the Jallianwalla Bagh, I think it right, in justice to myself, to submit to you a few remarks on so much of his letter as concerns myself.

"Sir M. O'Dwyer writes, "I put all my information at the disposal of the Secretary of State, and also of Lord Sinha, Sir T. Holderness and others at the India Office. The impression I then formed (in June and July last) was that as regards all the main facts the India Office was quite as fully informed as I was ; though I was naturally able to explain certain points, *e.g.*, the reasons for using aeroplanes at Gujranwala, for the exclusion of legal practitioners from other provinces by the Martial Law authorities, etc." . . . . "Indeed, all that time, my endeavour was to impress upon the authorities at the India Office the gravity of the situation in the Punjab, which to my mind they had not sufficiently realised."

"Lower down he quotes from a letter dated 30th December, 1919 which he wrote from India to the Secretary of State, in which the following passage occurs : "Dyer, at the first interview I had with him on the 16th April, told me everything as frankly and fully as the limited time I could spare him (when there was a rebellion all around, would allow. I did my best to repeat his version, with my own views and comments, to you and to others at the India Office on the very first opportunity. If I did not do so fully enough, then the fault is certainly not his, but rests either with me or with

those who were questioning me. But, as I have already said, there was, even as far back as 30th June, little room for doubt as to the substantial facts, *viz.*, the circumstances in which he opened and maintained fire on the prohibited assembly on 13th April, causing death casualties which at the time he roughly put at about 200, but which the complete up to date enquiries put at 379."

"I gather that the interview which Sir M. O'Dwyer had with General Dyer was limited to a quarter of an hour, and that when Sir M. O'Dwyer left India in May the Punjab Government was still awaiting General Dyer's Report. (*See* Hunter Committee's Report, page 117). General Dyer's Report was not made till August, 1919. It is this Report that contains the passage which gives the key to General Dyer's action and which is the centre of the controversy to which his action has given rise. "It was no longer a question of merely dispersing the crowd, but one of producing a sufficient moral effect, from a military point of view, not only on those who were present, but more especially throughout the Punjab. There could be no question of undue severity." (Hunter Committee's Report, page 30.) Up to the time I remained in the India Office, General Dyer's Report had not reached it.

"I had the privilege of frequent conversations with Sir M. O'Dwyer during the summer of 1919, and learnt from him many particulars regarding the disorders in the Punjab that bore out his view that the situation had been one of extreme gravity. As regards General Dyer's handling of the Amritsar riots, I have a clear recollection that Sir M. O'Dwyer justified the casualties (then thought to be about 200 killed) by the necessity for dispersing a hostile and dangerous mob, inflamed by the license and savagery which for several days had prevailed in the city, and for regaining control over the populace. But I have no recollection that he considered the force employed to have been in excess of the immediate necessities of the case, and deliberately exercised in excess with the distinct object of producing a moral effect throughout the province. My recollection is fortified by the astonishment which I felt on reading the report of General Dyer's evidence which appeared in the *Times* of 15th December. I was by that time aware that a bitter controversy had arisen in India over the circumstances of the Jallianwala Bagh affair, and that the exact incidents were in dispute between the National Congress party and the Government. But the details given by General Dyer to the Commission came to me as a great surprise and were entirely unexpected.

"In conclusion, I would like to say, that if I had been called upon during the summer or autumn of 1919 to prepare a statement for publication regarding the Jallianwala Bagh incident, and had

framed it on the information verbally received from Sir M. O'Dwyer and on the scanty information transmitted by the Government of India, the narrative would have been of a different complexion from the account of the facts given by General Dyer. It would not and could not have included the critical features on which discussion has since centred. On the publication of General Dyer's evidence, the India Office would assuredly have been taken to task if it had forestalled the Committee's inquiries by publishing an imperfectly, and as some persons would have considered, misleading account of what actually had happened. The Government of India in their despatch forwarding the Committee's Report say that in view of the fact that a Committee was about to make a formal investigation, they had deliberately refrained from instituting preliminary inquiries. The India Office took the same view and I venture to think that its reticence has been justified by the event.

"It is perhaps superfluous to say that I kept you fully informed of my conversations with Sir M. O'Dwyer. My recollection is that while recognising the great value of the information placed by him at your disposal, you were as impressed as I was with the inadequacy of our knowledge of what really happened at Amritsar and elsewhere, with the conflicting character of the rumours and assertions appearing in the Indian and Anglo-Indian press, and with the necessity for awaiting a full inquiry on the spot by a strong Committee.

Yours sincerely,
(Sd.) T. W. HOLDERNESS.

On 7th July 1920, the day before the famous Amritsar Debate in the House of Commons. the Dyerites raised a howl against Mr. Montague and plied him with questions.

Sir W. Joynson Hicks began the heckling by asking Mr. Montagu whether he would publish the Report of Major Briggs, the brigade-major to General Dyer, which was refused publication by the Hunter Committee owing to the death of the writer. Mr. Montagu said that the document referred to was not admitted as evidence by Lord Hunter's Committee and had never been communicated officially. It was appended to the statement submitted by General Dyer to the Army Council and will be published with that statement.

Then Viscount Curzon and others asked whether all witnesses included General Dyer called before the Hunter Committee was given an open opportunity of correcting the report of their evidence. Mr. Montagu could not give a definite reply, but said that Gen. Dyer's statement has been published.

any of these conditions be not, in the opinion of the Local Government, fulfilled, the Local Government may cancel the suspension of the sentence. The hon. member will perceive that, under the terms of the condition, the Local Government have full discretion to act, and I would prefer to leave it to the Local Government to act.

Colonel Yate: Do the Government of India think it right to go against four judges and is it likely to uphold the judiciary of India when four judges out of five condemn a man and the Government of India order his release?

Mr. Gwynne asked Mr. Montagu if when he first heard of the Amritsar occurrences he thought it a matter for immediate inquiry and if so why he did not arrange for the commission to commence proceedings before 29th October.

Mr. Montagu: As I stated in this House on the 22nd May, 1919, the Viceroy had always contemplated an inquiry and in the first week of that month he intimated this fact to me. I said, however, on the same date "Let us talk of an inquiry when we have put the fire out." Any subsequent delay was due to climatic conditions and to the obvious difficulties in selecting and arranging for such a Committee.

Mr. Gwynne: Will the right hon. gentleman say on what date he considered the fire to be put out?

Mr. Montagu: I would not like to say that accurately in answer to a supplementary question, but I would suggest to the hon. member that it was certainly not before martial law.

Mr. Gwynne: Does the right hon. gentleman suggest it was reasonable, taking into consideration all that he has said, to wait from April until the end of October before proceedings were started?

Mr. Montagu: I understand that that is one of the charges which the hon. member will make in the debate. You cannot hold an inquiry of this kind in the Punjab during the hot weather, and you cannot ask people to serve on an inquiry the date of which has not yet been fixed.

Mr. Gwynne rose—

Mr. Spesker: The hon. member had better wait until to-morrow. He is in danger of spoiling his case by this preliminary canter.

Nevertheless Mr. Gwynne continued his cross-examination and next asked Mr. Montagu if it was his intention to publish the evidence of all the witnesses examined by the Committee, or, expected the House to form an opinion on extracts from the evidence of a few witnesses, as set forth in the Blue Book Cmd 681.

Mr. Montagu: The evidence of witnesses examined by the Hunter Committee has been published and is on sale, except that of three witnesses heard "in camera." Members were informed, on a slip attached to the Report, which has been distributed, that copies of evidence would be supplied on application to the India Office.

Mr. Gwynne: Is the right hon. gentleman aware that I have applied twice in the Vote Office for a copy of the evidence, and have been unable to get one?

Mr. Montagu: Nobody can regret more than I do the misfortunes of the hon. member. I will see that he gets a copy of the evidence this afternoon.

Mr. Gwynne: Does not the right hon. gentleman think it is very important that we should all have it? Is it not usual for hon. members to be able to get evidence of all important Commissions and inquiries in this House?

Colonel Wedgood: Will the right hon. gentleman let me have a copy too?

Mr. Montagu: There are, I think, five volumes. If I printed and distributed them all to every hon. member I should be accused of unnecessary expenditure. If the hon. member has found any difficulty in getting the evidence it is rather remarkable that he waits till the day before the debate is to take place.

Mr. Gwynne said Mr. Montagu must know that it was usual to send round such evidence. Continuing his questions, Mr. Gwynne asked Mr. Montagu at what date and through what source he eventually became aware of the details of the occurrences at Amritsar.

Mr. Montagu: Brigadier-General Dyer's own Reports were first received at the India Office in January, 1920, and the Committee's Report at the end of March. Earlier official reports had not given the details in question. It was in the previous December that I read a newspaper cablegram regarding what Brigadier-General Dyer had said in evidence.

Mr. Gwynne: Will the right hon. gentleman kindly answer my question, which was, from what source he eventually kept himself informed as to the details of the occurrence?

Mr. Montagu: Perhaps the hon. member will be good enough to study carefully the printed report of the answer I have just read to the House.

Colonel Yate: Can the right hon. gentleman explain why the Government of India did not send home General Dyer's Report?

Mr. Speaker: That does not arise out of the question.

Mr. Remer asked Mr. Montagu whether the contents of the leading Indian newspapers containing comments on the Amritsar disturb-

ances and evidence given before the Hunter Commission were cabled to him, and particularly whether a full Report of General Dyer's evidence before the Hunter Commission on 19th November was cabled to him ; if they were not cabled, on what date the newspapers published from April to July were received : and whether he made á careful study of them.

Mr. Montagu : I do not think it is a part of the duty of Ministers to explain what newspapers they read and with what attention they read them.

Mr. Remer further asked whether he would state the names of the two London newspapers he asked to interview Miss Sherwood in October last. Mr. Montagu's reply was : No. Sir, I do not think it necessary to give this information.

Mr. Gwynne asked if there was any reason to believe that the tribal risings in April and May 1919 had any connection with the disturbances throughout India and especially Punjab.

Mr. Montagu replied that he was not in a position to add anything to the information given in paragraph 22 of Chapter XI of the Hunter Report.

Brig.-Gen. Surtees asked Mr. Montagu if he had received any reports from Afghanistan and the border tribes as to the activity of Bolshevik agents in those countries, and if that was resulting in a dangerous effervescence directed against British rule in India ; and if he had found Bolshevik agents working in the more disturbed portions of that Empire.

Mr. Montagu : I have received reports on Bolshevik activities in the regions mentioned in the question. I know the Government of India are carefully watching the propaganda, which is, of course, dangerous in any country. I am consulting them as to the publication of a statement on the subject.

The Amritsar Debate

In the House of Commons

8th July 1920

The House went into Committee of Supply, Mr. WHITLEY in the Chair. On the vote of £53,500 to defray the charges up to March 31, 1921, for the constributions towards the cost of the Department of the Secretary of State for India,

Mr. Montagu said : The motion that you have just read from the Chair is historic. For the first time in the history of this House the Committee have had an opportunity of voting or of paying the salary of the Secretary of State for India, and it is signalized by a very large desire for a reduction. (Laughter.) I gather that the intention is to confine the debate to the disturbances which took place in India last year. That being so, after most careful consideration, not only of the circumstances in this House, but of the situation in India, I have come to the conclusion that I shall best discharge my Imperial duty by saying very little indeed. The situation in India is very serious owing to the events of last year and owing to the controversy which has arisen upon them. I am in the position of having stated my views and the views of His Majesty's Government, of which I am the spokesman. The dispatch which has been published and criticised was drawn up by a Cabinet Committee and approved by the whole Cabinet. I have no desire to withdraw from or to add to that dispatch. Every single body, civil and military, which has been charged with the discussion of this lamentable affair, has come, generally speaking, to the same conclusion. The question before the Committee this afternoon is whether they will endorse the position of His Majesty's Government, of the Hunter Committee, of the Commander-in-Chief in India, and of the Army Council or whether they will desire to censure them. I hope the debate will not take the shape of a personal criticism of the personnel of any of them. It is so easy to quarrel with the judge when you do not agree with his judgment.

Sir E. Carson :—And with the officer too.

Mr. Montagu.—The Hunter Committee which was chosen after the most careful consideration with one single desire and motive to get a tribunal impartial to discharge the most thankless duty to the

best of their ability, was, I maintain, such a body. I resent very much the insolent criticisms that have been passed either on the European members, civil and military, or upon the distinguished Indian members, each of whom has a record of loyal and patriotic public service. The real issue can be stated in one sentence, and I will content myself by asking the House one question. If an officer justifies his conduct, no matter how gallant his record is—and everybody knows how gallant General Dyer's record is—by saying that there was no question of undue severity, that if his means had been greater the casualties would have been greater, and that the motive was to teach a moral lesson to the whole of the Punjab, I say without hesitation, and I would ask the Committee to contradict me if I am wrong, because the whole matter turns upon this, that it is a doctrine of terrorism, (Lieutenant-Commander Kenworthy —Prussianism.) If you agree to that you justify everything that General Dyer did. Once you are entitled to have regard neither to the intentions nor to the conduct of a particular gathering, but to shoot and to go on shooting with all the horrors that were involved in order to teach some body else a lesson, you are embarking on terrorism to which there is no end. (Cheers.)

I say further, that when you pass an order that all Indians must crawl past a particular place, when you pass an order to say that all Indians must forcibly or voluntarily salaam any officer of His Majesty the King, you are enforcing racial humiliation. I say, thirdly, that when you take selected schoolboys from a school, guilty or innocent, and whip them publicly, when you put up a triangle where an outrage, which we all deplore, has taken place and whip people before they have been convicted, when you flog a wedding party, you are indulging in frightfulness, and there is no other adequate word which could describe it.

If the committee follows me on these three assertions, and I shall be only too glad if there be any answer, this is the choice and this is the question which the Committee has put to it to-day before coming to an answer. Dismiss from your mind, I beg of you, all personal questions. I have been pursued for the last three months by some people and by some journals with personal attack. I do not propose to answer them to-day. Are you going to keep your hold upon India by terrorism, racial humiliation and subordination, and frightfulness, or are you going to rest it upon the goodwill and the growing goodwill of the people of your Indian Empire? I believe that to be the whole question at issue. If you decide in favour of the latter course, well, then you have got to enforce it. It is no use one Session passing a great Act of Parliament which, whatever its merits or demerits, proceeded on the principle of

partnership for India in the British Commonwealth, and then allowing your administration to depend upon terrorism. You have got to act in every Department, civil and military, unintermittently upon a desire to recognise India as a partner in your Commonwealth. You have got to safeguard your administration on that Order passed by the British Parliament. You have got to revise any obsolete ordinance or law which infringes the principles of liberty which you have inculcated into the educated classes in India.

That is one choice, to adhere to the decision that you put in your legislation when you are criticising the administration. There is the other choice, to hold India by the sword, to recognise terrorism as part of your weapon, as part of your armament to guard British honour and British life with callousness about Indian honour and Indian life. India is on your side in ensuring order. Are you on India's side in ensuring that order is enforced with the canons of modern love of liberty in the British democracy? There has been no criticism of any officer, however drastic his action was, in any province outside the Punjab. There were 37 instances of firing during the terrible, dangerous disturbances of last year. The Government of India and His Majesty's Government have approved 36 cases and only censured one, censured one because, however good the motive, I believe that it infringed the principle which has always animated the British Army and infringed the principles upon which our Indian Empire has been built.

Mr. Palmer—It saved a mutiny.

Mr. Montagu.—Somebody says that it saved a mutiny.

Captain W. Benn.—Do not answer him.

Mr. Montagu—The great objection to the rule of force is that you pursue it without regard to the people who suffer from it and that having once tried it you must go on, and that every time an incident happens you are confronted with the increasing animosity of the people who suffer. There is no end to it until the people in whose name we are governing India, the people of this country, and the national pride and sentiment of the Indian people, rise together in portest and terminate your rule in India as being impossible on modern ideas of what an Empire means.

The Alternative to Terrorism

There is an alternative policy which when I assumed office I commended to this House and which this House has supported until to day. It is to put the coping stone on the glorious work which England has accomplished in India by leading India to a complete free partnership in the British Commonwealth,—to say to India: "We hold British lives sacred, but we hold Indian lives sacred too. (Cheers). We

want to safeguard British honour by protecting and safeguarding India too, that our institutions shall be gradually perfected whilst protecting you and ourselves against revolution and anarchy in order that they commend themselves to you." There is a theory abroad on the part of those who have criticised His Majesty's Government upon this issue that an Indian is a person who is tolerable so long as he will obey your orders, (Cries of "No" "Shame" and "Withdraw") but if once he joins the educated class, if once he thinks for himself, if once he takes advantage of the educational facilities which you have provided for him, if once he imbibes the ideas of individual liberty which are dear to the British people, why then, you class him as an educated Indian and as an agitator. (Cheers.) What a terrible and cynical verdict on the whole !

Mr. C. Palmer.—What a terrible speech.

Mr. Montagu.—As you grind your machinery and turn your graduate out of the University you are going to dub him as belonging, at any rate, to the class from which your opponents come (Hon. Members—"No.")

Colonel Ashley.—On a point of order. May I ask the right hon. gentleman to say against whom is he making his accusation ?

The Chairman.—That is not a point of order. We are here to hear different points of view, and all points of view. (Cheers.)

Brigadier-General Cockerill—On that point of order, Mr. Chairman, are we not here to discuss the case of General Dyer ? What is the relevancy of these remarks to that ?

The Chairman called on Mr. Montagu to resume his speech.

Mr. Montagu.—If any of my arguments strike anybody as irrelevant—

Mr. Palmer.—You are making an incendiary speech.

Mr. Montagu—The whole point of my observations is directed to this one question, that there is one theory upon which I think General Dyer acted, the theory of terrorism and the theory of subordination. (Cheers.) There is another theory, that of partnership, and I am trying to justify the theory endorsed by this House last year. I am suggesting to this House that the Act of Parliament is useless you enforce it both in the keeping of order, and in administration. (Cheers.) I am trying to avoid any discussion of details which do not to my mind affect that broad issue.

I am going to submit to this House this question, on which I would suggest, with all respect, they should vote : Is your theory of rule in India the ascendancy of one race over another, of domination and subordination—(Hon. Members,—"No")—or is your theory that of partnership ? If you are applying domination as your theory, then it follows that you must use the sword with increasing

severity—(Hon. Members.—"No")—until you are driven out of the country by the united operation of the civilised world. (Cheers and interruption.) (An Hon. Member—"Bolshevism") If your theory is justice and partnership, then you will condemn a soldier, however gallant (Mr. Palmer.—"Without trial.") who says that there is no question of undue severity, and that he is teaching a moral lesson to the whole country. That condemnation, as I said at the beginning, has been meted out by everybody who has considered this question, civil and military. As far as I know, no reputable Indian has suggested any punishment, any vindictiveness, or anything more than the repudiation of the principles upon which these acts were committed. I invite this House to choose and I believe that the choice they make is fundamental to a continuance of the British Empire and vital to the continuation, permanent I believe it can be, of the connexion between this country and India. (Cheers.)

Sir Edward Carson—the Hero of Ulster

Sir E. Carson.—I think upon reflection, that my right hon. friend who has just addressed the House will see that the kind of speech he has made is not one that is likely in any sense to settle this unfortunate question. (Cheers.) My right hon. friend, with great deference to him, cannot settle artificially the issue which we have to try. He has told us that the only issue is as to whether we are in favour of a policy of terrorism and and insults towards our Indian fellow subjects, or whether we are in favour of partnership with them in the Empire. What on earth has that to do with it? (Cheers.) (Lieutenant Commander Kenworthy.—"Everything.") I should have thought that the matter we are discussing is so grave both to this country and to our policy in India that we might, at all events, have expected a Minister of the Crown would have approached the matter in a much calmer spirit than he has done (Cheers.)

An Hon- Member.—He ought to resign.

An Hon. Member.—So should Ulster. (Interruption.)

The Chairman.—All round the House there seems to be a lack of understanding as to the seriousness of this matter. Let me remind the House that this is the first occassion on which we have had these Indian Estimates—that is to say, the salary of the Secretary of State—by deliberate act of the House, and for public reasons—put on the British Estimates, and we ought, I think, to recognise that occasion. (Cheers.)

Sir E. Carson.—If I thought that the real issue was that which was stated by my right hon. friend, I would not take part in this debate. There would be no dissension from the proposition that

he has laid down in this House. (Cheers.) But it does not follow because you lay down a general proposition of that kind that you have brought those men, on whom you are relying in extremely grave and difficult circumstances as your officers in India, within the category that you yourself are pleased to lay down. As to whether they do come within those categories is the real question. My right hon. friend begs the question. (Cheers.) After all, let us even in the House of Commons, try to be fair, some way or other, to a gallant officer of 34 years' service—(Colonel Wedgwood—Five hundred people were shot)—without a blemish upon his record, and whatever you say, and mind you this will have a great deal of effect on the conduct of officers in the future as to whether or not they will bear the terrible responsibility, which they have not asked for, but which you have put upon them—we may at least try to be fair and to recognise the real position in which this officer is placed. (Cheers.) So far as I am concerned, I would like, at the outset, to say that I do not believe for a moment it is possible in this House, nor would it be right, to try this officer. (Cheers.) To try this officer, who puts forward his defence as I saw it for the first time an hour ago, would be a matter which would take many days in this House. Therefore, you cannot do it; but we have a right to ask: Has he ever had a fair trial? and to put this further question before you break him and send him into disgrace: Is he going to have a fair trial?

You talk of the great principles of liberty which you have laid down. General Dyer has a right to be brought within those principles of liberty, and he has no right to be broken on the *ipse dixit* of any Commission or Committee, however great, unless he has been fairly tried—and he has not been tried. (Cheers.) Do look upon the position in which you have put an officer of this kind. You send him to India, to a district seething with rebellion and anarchy. You send him there without any assistance whatever from the civil Government, because the Commission have found that the condition of affairs was such in this district that the civil Government was in abeyance, and even the magistrate, as representing the civil power, who might have been there to direct this officer, had gone away on another duty. I cannot put the matter better than it was put before the Legislative Council of India on September 19 last by the Adjutant-General of India:—"My Lord," he said, "my object in recounting to this Council in some degree the measures taken by the military authority to reconstitute civil order out of chaos produced by a state of rebelllon is to show there is another side to the picture, which is perhaps more apparent to the soldier than to the civilian critic." Now

mark this: "No more distasteful or responsible duty falls to the lot of the soldier than that which he is sometimes required to discharge in aid of the civil power. If his measures are too mild he fails in his duty; if they are deemed to be excessive, he is liable to be attacked as a cold blooded murderer. His position is one demanding the highest degree of sympathy from all reasonable and right-minded citizens. He is frequently called upon to act on the spur of the moment in grave situations in which he intervenes, because all the other resources of civilians had failed. His actions are liable to judged by *ex post facto* standards, and by persons who are in complete ignorance of the realities which he had to face. His good faith is liable to be impugned by the very persons connected with the organisation of the disorders which his action has foiled. There are those who admit that a measure of force may have been necessary, but cannot agree with the extent of the force employed. How can they be in a better position to judge of that than the officer on the spot? It must be remembered that when a rebellion has been started against the Government it is tantamount to a declaration of war, and war cannot be conducted in accordance with standards of humanity to which we are accustomed in peace." (Cheers.) That was a statement of the position of General Dyer. He went to Amritsar on April 10, and found the place and all the great towns in the immediate neighbourhood in a state of rebellion. On April 11 and 12 murders of officials and bank managers were rife. The civil power had to abandon its functions, and he was asked to make up his mind as best he could how to deal with the situation. Now he is to be broken because it was said that he made up his mind wrongly.

"Armchair Politicians"

The armchair politicians in Downing Street (cheers) had, no doubt, a very difficult task to perform. I do not contend that in no case should they overrule what an officer had done in the spot, but they ought to try to put themselves in the position of the man whom they asked to deal with difficult circumstances. That officer had to decide whether the occurrence was a riot, or an insurrection, or a rebellion, or a revolution, or part of a revolution. There is a great deal to show, even on the face of the report, that it was at all events the precursor to a revolution. Different rules officially laid down were applicable to each of those different matters. What is the error of judgment? It is admitted that he acted in perfect good faith and in most difficult circumstances with great courage and great decision; but the fault found with him is that, while he thought that the circumstances necessitated that he should teach a lesson to the country all round, the Committee thought that he ought

to have dealt with it solely as a local matter. That is the difference"—exclaimed Sir Edward Carson,—and that for an officer who had done his best was to be broken after 34 years of honourable service, to be broken, although the authorities had to admit that the action for which he was broken might have saved a most bloody outbreak in that country which might have caused the loss of thousands of lives, and might have saved the country from a mutiny in comparison with which the old Mutiny in India would have appeared small. Continuing Sir Edward said that admitting that General Dyer did commit an error of judgment, was it such that he alone ought to bear the consequences? (Hear, hear.) If they laid down for British Officers who were placed in difficult situations the doctrine that before they acted, no matter what state of affairs surrounded and confronted them, they must sit down and ask themselves what would Downing-street think, and what would the House of Commons say to them when they had been stirred up six months afterwards, and if they made scape-goats of them because of an *ex post facto* statement of the events, they would never get officers to carry out their duties. (Hear, hear.)

The most extraordinary part of this case was as to what happened immediately after the incident. The Secretary for India had said that nobody in authority approved of General Dyer's action. The General's statement of his case showed that on April 15 his Divisional Commander conveyed his approval, and the Lieutenant-Governor agreed with the Divisional Commander. Later, when he was sent on a special mission, he expressed a wish to be free from anxiety as to whether his action at Amritsar had been approved, and was assured by a superior officer that if it had not been approved he would have heard about it long before that time. This officer went on day after day in more and more difficult position after he had carried out his work at Amritsar. He was promoted to a higher command, and not only that, but **he received the thanks of the native community** as having saved the situation. When the agitation began everything took a different turn, and the extraordinary part of it all was that during all those six months, the Secretary of State never even knew the truth of the details. That was really a most extraordinary and unfortunate matter. He never took a single step until the agitation broke out in India, when the situation had been practically saved. If there was anything to be investigated and if there was punishment to be meted out, it ought to have been immediate, not only in justice to General Dyer, but in justice to the Indian people. Was there ever a more extraordinary case than that of a man who came forward and told you: I won the approval of my

Divisional Commander and the Lieutenant Governor of the Province, I was given promotion, I was sent to do more and more difficult jobs, and eight months afterwards, you tell me I shall never again be employed because I have disgraced myself by inhumanity and an error of judgment?" (Cheers.)

Continuing Sir E. Carson said that he wondered how many members of the House and of the Government were really following out the conspiracy to drive the British out of India. He should say nothing of his own country; it was all one conspiracy. It was all engineered in the same way and for the same object. He held in his hand a document which was sent him by somebody in America a few days ago, and it went through the whole of this case in its own peculiar way. It spoke of England as losing hold of Asia, and said: "Arms are lacking it is true, but India has the will and the determination to expel England."

"If," continued Sir Edward, "that is true—and I am not arguing the causes or the policy of the Secretary of State in trying to alleviate the situation there by the Act passed last year—all these matters are outside the domain of the soldier. But for Heaven's sake, when you put a soldier into these difficult positions, do not visit upon him punishment for attempting to deal to the best of his ability with a situation for which he is not in the slightest degree responsible. (Cheers.) If he makes an error of judgment, approach it with the full idea that if he is *bona fide* and you can see it was impossible for him in the circumstances to have calmly made up his mind in the way you would do, then you may censure him, but do not punish him. (Cheers.) I should like to ask my right hon. friend, if men are to be punished for an error of judgment such as occurred in this case, how many of those right hon. gentlemen would now be sitting on the Treasury bench. (Loud cheers.) I hope we may not get off on false issues."

Mr. Churchill (President, Army Council).—I shall certainly endeavour to follow very carefully and strictly the advice my right hon. friend has given, that we should approach this subject in a calm spirit, avoiding passions and attempts to excite prejudice. Members ought to address themselves to the subject with a desire to do to-day what is most in accordance with the long view of the general interests of the British Empire. There has not been for many years a case of this kind which raised so many grave and wide issues, or in regard to which a right and wise decision is so necessary. There is the intensity of racial feeling which has been aroused on both sides in India, and every word we speak ought to have regard to that. (Hear, hear.) There are the difficulties of military officers, who in these turbulent times have been, or are likely to be, called upon to handle

their troops in the suppression of civil disturbance; there are the requirements of justice and fair play towards an individual (cheers); and there are the moral and humanitarian conceptions involved. All these combine to make the task of the Government and of the Committee one of exceptional seriousness, delicacy and responsibility"

Dealing first of all with the action of the Army Council, for which he accepted full responsibility, Mr. Churchill explained that the conduct of a military officer might be dealt with by three perfectly distinct ways. First of all, he might be removed from his employment, relegated to half-pay, and told that he had no prospects of being employed again. From the humble lance-corporal who reverted to a private by a stroke of the pen, if the colonel thought he would prefer some other subaltern, up to the highest general or field-marshal, all officers were amenable to this procedure in regard to the appointments which they held. The procedure was hardly ever challenged, and it was not challenged by General Dyer in his statement. The procedure was accepted with soldierly fortitude, because it was believed, on the whole, that the administration of these great responsiblities was carried out in a fair and honest spirit. Under this procedure the officer reverted automatically to half-pay, and in a very large proportion of cases, having reverted to half pay, he applied to be placed on retired pay, because, especially in the case of senior officers, retired pay was often appreciably higher than half-pay. The second method was of a more serious character, and affected, not the employment of an officer, but his status and his rank. Here, it was a question of retiring an officer compulsorily from service, or imposing on him some reduction or forfeiture in his pension of retired pay. The third method was of a definitely penal character. Honour, liberty, life were affected. Cashiering, imprisonment, or the death penalty might be involved, and for this third category, of course, the whole resources and protection which the judicial procedure of lawful tribunals and British justice accorded to an accused person were brought into being. After asking the Committee to bear these distinctions very carefully in mind, Mr. Churchill said that it would be seen that General Dyer was removed from his apointment by the Commander-in-Chief in India, that he was informed, as hundreds of officers had been informed, that there was no prospect of further employment for him under the Government of India, and that in consequence, he reverted automatically to half-pay. These proceedings were brought formally to the notice of the Army Council by a letter from the India Office, which recommended further that he should be retired from the Army, and by a telegram

from the Commander-in-Chief in India, which similarly recommended that he should be ordered to retire. That was about a month ago.

At a latter stage it was brought publicly to the notice of the Army Council by the published despatch of the Secretary of State for India, which stated that the circumstances of the case had been referred to the Army Council. The first step taken by the Council was to direct General Dyer—they had an application from him that he desired to take this course—to submit a statement of his case for their consideration. They felt that if any action was to be taken against him, apart from removing him from his appointments and employment in India, it was essential that he should furnish a statement in his own behalf and should be judged upon that and not upon evidence which he had given as a witness in an inquiry before which he had been cited without having any reason to believe that he was cited as an incriminated party. If any question of retiring General Dyer from the Army was to be examined, direct statement from him in his own defence was indispensable. The conclusion reached by the Army Council, which had been communicated to the House, was reached unanimously and spoke for itself. It must be remembered, however, that the Army Council must deal with these matters, mainly, from a military point of view. They had to consider the rights and interests of officers and also to consider the effects of any decision which they might come to upon the confidence with which officers would do their duty in the kind of extremely difficult and tragical circumstances in which General Dyer and a good many other officers of the Army had in recent times been placed.

The Army Council had to express an opinion on General Dyer's conduct from what was primarily a service standpoint. Their function was one of great responsibility, but at the same time it was one of limited and special responsibility, and their conclusion in no way affected the final freedom of action of the Cabinet. He made it perfectly clear to his colleagues on the Army Council, that in assenting to the conclusion to which they came, as an Army Council, he held himself perfectly free if he thought right to and if the cabinet so decided, to make a further submission to the Crown for the retirement of General Dyer from the Army.

In explaining and justifying the decision of the Cabinet he should permit himself to enter to some extent upon certain aspects of the merits of the case. However they might dwell upon the difficulties of General Dyer during the Amritsar riots in the anxious and critical situation in the Punjab and the danger to Europeans throughout that province, one tremendous fact stood out—the slaughter of nearly 400 persons, and the wounding of probably

three or four times as many at the Jallianwalla Bagh. That was an episode which appeared to be without precedent or paralell in the modern history of the British Empire. It was an event of an entirely different order from any of those tragic occurrences which take place when troops were brought into collision with the civil population. It was an extraordinary event, a monstrous event, an event which stood in singular and sinister isolation. Collisions between troops and native populations had been painfully frequent in the melancholy aftermath of the Great War both in India and Egypt.

"I agree absolutely with the opinions quoted from the Adjutant-General in India as to the distasteful, painful, embarassing, torturing situation, mental and moral, in which the British officers in command of troops were placed, when he was called upon to decide whether or not he should open fire, not upon the enemies of his country, but on those who were his countrymen or who were citizens of our common Empire. But there were certain broad lines by which I think, an officer in such cases could be guided. First of all the officer might ask himself, "Is the crowd attacking any thing or anybody? Are they trying to force their way forward to the attack of some building or troops or police, or are they attempting to attack some band of persons or some individual who has excited their hostility?" The second question is, "Is the crowd armed?" By armed I mean armed with lethal weapons. Armed men are in a category absolutely different from unarmed men. An unarmed crowd stands in a totally different position from an armed crowd. At Amritsar the crowd was neither armed nor attacking. (Cries of "Oh!") When I use the word "armed" I mean armed with lethal weapons, or with firearms. There is no dispute on that point. "I was confronted," says General Dyer, "by a revolutionary army." What is the chief characteristic of an army? Surely it is arms. This crowd was unarmed. There is another test which is not quite so simple, but which nevertheless has often served as a good guide to officers in these difficult situations—I mean the doctrine that no more force should be used than is necessary to secure compliance with the law. The officer should also confine himself to a limited and definite objective—that is to say, to prevent a crowd from doing some thing which they ought not to do, or to compel them to do something which they ought to do.

It would be said, Mr. Churchill continued, that it was easy enough to talk like this, and to lay down these principles here, in safe and comfortable England, in the calm atmosphere of the House of Commons or in armchairs in Downing street or Whitehall. But it was quite a different business on the spot in a great emergency, confronted with a

howling mob, with a great city or a whole province, quivering round with excitement. (Cheers.) He quite agreed. Still there were good guides, and sound, simple tests, and it was not too much to ask of our officers to consider and observe them. After all, our officers were accustomed to accomplish more difficult tasks than that. Over and over again British officers and soldiers had stormed entrenchments under the heaviest fire and had half their number shot down before they entered the position of the enemy. With the certainty of a long bloody day before them, and a tremendous bombardment crashing all around they were to be seen taking out their maps and watches, and adjusting their calculations with the most minute detail. They had been seen showing not merely mercy, but kindness to prisoners, observing restraint in the treatment of them, punishing those who deserved to be punished by the hard laws of war, and sparing those who might claim to be admitted to the clemency of the conqueror, and they had been seen exerting themselves to show pity and to help the wounded, even to their own peril. They had done all that thousands of times, and in requiring them in moments of crisis dealing with civil riots, when the danger was incomparably less, to consider these broad, simple guides, he did not think they were being taxed beyond their proved strength.

If they offered these broad, positive guides to our officers in anxious and dangerous times, there was surely one guide which they could offer them of a negative character. That was to avoid what was called "frightfulness." By frightfulness he meant inflicting great slaughter or massacre on a particular crowd of people with the intention of terrorizing, not merely the rest of the crowd, but the whole district or the whole country. We could not admit this doctrine in any form. Frightfulness was not a remedy known to the British Pharmacopœa. Governments which had seized power by violence and usurpation had often resorted to terrorism to keep what they had stolen, but the British Empire, in which lawful authority descended from hand to hand, generation after generation, did not need such aid. All such ideas were absolutely foreign to the British way of doing things.

At the Jallianwalla Bagh the crowd was not armed, except with bludgeons, and it was not attacking anybody or anything. On fire being opened on it, it tried to run away, but it was penned up in a narrow space, considerably smaller than Trafalgar square, when one bullet would drive through three or four bodies. The people ran madly this way and that, and the firing was only stopped when the ammunition was on the point of exhaustion, enough being retained to provide for the safety of the force on its return journey.

reverse that decision upon no new facts—to take General Dyer's statement and judge him on that—is not only to fly in the face of the presumptions of evidence and the rules of common sense and the practice of all civil and judicial tribunals, but is something much worse than that. It is for the House of Commons to take upon itself on behalf of the British Empire as a whole, the responsibility of condoning and adopting one of the worst outrages in the whole of our history. (Cheers.) For my part, so far as I can command any authority or confidence among others in this House, it is an occasion on which I ask my hon. friends to give their hearty support to the Government in the course which they have taken. (Cheers).

Mr. Ben Spoor (a Labour Leader) said that he hoped that Mr. Montagu would have dealt at greater length with the extremely grave situation in India and the result of the happenings of last year. He, Mr. Spoor, and his party appreciated very much the very definite declaration of the Secretary of State with regard to the question of the Hunter report. If the spirit which infused the right hon gentleman's speech infused and directed the policy of the Government in India in the months ahead there was some chance of peaceful relations being established between India and England. He would be extremely sorry if he thought that people outside the House of Commons, whether British or Indian, believed that the sentiment of which they had evidence that afternoon represented in any real degree the feeling of the people of that country. A fortnight ago the Labour Party held a great conference and passed a resolution on that subject which some people no doubt thought was of an extreme character. It asked for the recall of the Viceroy, the impeachment of Sir M. O'Dwyer, the trial of officers against whom allegations had been made, and the repeal of repressive legislation. He believed that resolution expresed much more correctly the general feeling of the public of that country than did the exhibition they had seen that afternoon. Sir E. Carson had said: "Let us be fair to the British Officers." Yes; but also let them be fair to the hundreds of Indians who had lost their lives, and to the children who were bombed from the air by British Officers. Amritsar was not an isolated event any more than General Dyer was an isolated officer. He read from the report the evidence of an officer who had said referring to events at Delhi, that "a bit more firing would have done them a world of good." Was that a typical example of a British Officer in India? (Cries of "No.") If it was not, was that British Officer still holding office in India?

Mr Spoor claimed that the policy for which the Government of India had been responsible had contributed far more than had yet been admitted in that House to the serious situation that at present existed in that country. He therefore asked that the Viceroy and

Sir Michael O'Dwyer be dealt with in a way that would secure justice for the Indian people. India might be governed by consent ; she would never again be governed by force. (Cheers.) There were three courses open to the Government. The first was that which would be advocated by those who believed that General Dyer and his colleagues had saved the country—namely, a frank approval of the head of the Indian Government, Sir Michael O'Dyer, General Dyer, and the other officers implicated. The second course was the one which had apparently been followed up to now by the Secretary of State for India, that was to say, approval of the Indian Government and approval of Sir Michael O'Dwyer, but a condemnation of General Dyer, who, after all, was the instrument of their will. The third, and, in his view, the only logical oourse which was all consistent with the liberal spirit which was supposed to inspire the Reforms of last year, was the aim of leading the people of India into Liberty. If this last course was followed it obviously involved the condemnation of those who had been responsible for this reactionary policy. So far as the Labour Party were concerned, they stood for this last course. He moved the reduction of the vote by £ 100.

Lieutenant-General Sir Hunter Weston as one who had served with native troops in India appealed to the Committee to exercise moderation in what they said about the regrettable occurrences in India, and with a due feeling of reponsibility and of the harm that might be done by intemperate speeches on either side. There was a great danger of exacerbating feeling between the British section of the population of India and that conglomeration of different races, different religions and, indeed, of different civil nations which they were apt to class as one, as the People of India. There was undoubtedly present a certain strain in the relations between the British population in India and certain sections of the Indian races, and to still further aggravate that feeling would be to do the gravest disservice to their country. General Dyer by his record had shown himself to be a man and an officer well able to deal with threatening situations without the use of force. The evidence contained in the Report of Lord Hunter's Committee could not be used against any man in any Court of Law, either civil or military, and, therefore, it should not be used as the basis of defence or attack in that House or outside. In principle, the use of the military in aid of the civil power was the same in that country and in India. To allow anything in the nature of "frightfulness" was abhorrent to the British Nation, and therefore to the British Army. If both the Commander-in-Chief in India and the Army Council had decided that General Dyer should be relieved of his command, the Committee might be sure that he had

been treated fairly, and that no good could be done to him, to the Army, or to the country by attacking a decision made by responsible soldiers, who had the full confidence of the Army and the Nation, and had the facts fully before them and the best legal advice at their disposal.

He appealed to those who desired to defend an eminent soldier not to attack those other eminent soldiers who had to adjudicate on the case, and especially not to say anything which could be quoted, in the difficult days ahead as showing that members of Parliament approved anything which could give colour to the assertion that the British Army might be used as an instrument of oppression. Upon those members, whose sympathy with the relatives of those who lost their lives at the Jallianwala Bagh prompted them to condemn General Dyer utterly, and to call upon the Government to punish him still further, he urged moderation in the expression of their opinion, remembering that great harm might be done by their words in embittering feeling in India and adding to the difficulties of those who in the future would have to uphold law and order.

The situation with which General Dyer had to deal had been in existence for some time, and before his arrival had led to the murder of Europeans, to an assault upon an English woman, to loss of life among the natives, and to much damage to property. The terms of the written order given to him by the civil authority on his arrival on April 11, were: "The troops have orders to restore order in Amritsar and to use all force necessary. No gathering of persons nor procession of any sort will be allowed. All gatherings will be fired on." That notice was given out to several of the citizens on April 11. On the afternoon of April 13 having received notice from the Superintendent of Police that a crowd was assembling in the Jhallianwala Bagh, a park in Amritsar city, General Dyer marched to the spot, and found a huge assembly of many thousands of people, who appeared to him to be in a dangerous mood. A determined rush might easily overwhelm his little force of 50 native soldiers armed with rifles, and 40 armed only with kukris. General Dyer and his little band were entirely isolated in the city. Narrow streets were behind him, his flanks and rear were open to attack, and no reinforcements were within reach. If this little band, who were the sole guardians of law and order, had been overwhelmed, there was nothing to hold in check the instigator of crime and insurrection, nothing to prevent the recurrence of the loot and murder and arson which had raged in the city only three days before. (Hear. hear.) Any hesitation on General Dyer's part, any failure to use, and to use at once, the necessary force, might have been the spark that would light the conflagration of another mutiny.

No one who had not been placed in a similar situation should venture to condemn General Dyer. (Cheers.)

Lieutenant Colonel James said that, as it appeared to him, the question was one affecting not so much the Indian Empire as justice. When General Dyer put in his statement to the Army Council, one would have thought that the natural thing would have been to send for him and ask for oral explanations. He understood that procedure was never followed at the War Office, and he thought that alone vitiated the virtue of the appeal. Unless they could have a man face to face with the president of the tribunal they could not form a proper judgment on his case. General Dyer was faced with an unparalleled situation and the only judge of the amount of force which should be used at the moment was he himself. (Cheers) To say that there was no evidence of a general conspiracy in India, was just as absurd as it would be to set up a board of inquiry in Ireland at the present moment, and to say that there was no evidence of constables being killed, for the simple reason that they had not been caught. (Laughter and cheers.) He asked hon. members to stand for the cause of justice, fair play and moderation towards the great mass of the loyal Indian peoples, who would be the first to suffer if they in that House did not stand by their own people. (Cheers.)

Sir W. Joynson-Hicks said he was not prepared to abdicate his rights and duties as a member of the House of Commons because of the decision of the Army Council. After all, the House of Commons was the last Court to which General Dyer, and other persons aggrieved by the action of any Government Department, could come. (Cheers.) Hon. members had to decide one way or the other. A more disastrous speech than that of the Secretary of State for India had never been made in that House. (Cheers.) He (Sir W. Joynson-Hicks) had just returned from a visit to India and to Amritsar, and the opinions he was expressing as to the events which took place there were held by at lest 80 pet cent. of the Indian Civil Service throughout India and 90 per cent. of the European people. (Hear, hear.) The Secretary of State for India had, for some time past, entirely lost the confidence of the Indian Civil Service. (Cheers.) That was a very serious matter, and the speech of the Secretary of State that afternoon would have utterly destroyed any little shreds of confidence which might have been left to him, not merely in the minds of the Indian Civil Service, but in the minds of the British Army in India. (Cheers.) It was difficult, in the face of that attack, to make a moderate speech, which was merely one long vituperation of General Dyer and his action in India, and one long appeal to racial passions. (Cheers.) He was prepared to say that General Dyer did right. (Cheers.) Miss

Sherwood, the lady missionary who had been so brutally attacked and left for dead, had written: "I am convinced that there was real rebellion in the Punjab, and that General Dyer saved India." (Cheers.) Another wrote: "I strongly protest against injustice being done to General Dyer, who, I believe, did his duty and saved us from unspeakable horrors. In such a crisis only those on the spot can judge of what action can be taken." (Cheers.) The whole of India was in revolt and rebellion in the early part of April, 1919. He noticed in *The Times* newspaper that morning a leading article pleading for moderation, and asking why it was not possible to adopt the same methods at Amritsar as had been used in that quelling of the mob at Lahore on April 1910 and '12. If the leader writer in the *The Times* had read the evidence given before the Commission he would have seen that the General, who was in charge at Lahore, stated that he considered the quieting of Lahore was due 60 per cent to the action of General Dyer at Amritsar. The action at Amritsar of General Dyer spread all through the Punjab and particularly quieted the town of Lahore. In Amritsar itself all the facts showed that General Dyer was faced with a rebellion. If there was no rebellion, if there was merely a local riot, it was quite possible that General Dyer might be convicted of inhumanity, but if there was a rebellion, as he held there was, then a section of the people were at war with General Dyer. He had talked to men on the spot, both native and English, and native officials supported General Dyer to the utmost in the action he was taking, and they all testified that the inhabitants knew of the proclamations and the danger they would incur if they did not heed them.

It was not for those in the House, who did not know the facts and had not the knowledge that General Dyer had and with all the responsibility on his shoulders, to dare to say that he should have abstained from shooting in the way he did. (Cheers.) When it was all over, was General Dyer assailed by the people? Not at all: they came in their thousands, and thanked him for the action he had taken. (Cheers.) He was made a Sikh, and was employed to march round the whole district, and pacify it—this blood-thirsty man! And let there be no mistake about it—General Dyer was beloved by the whole of the Sikh nation!! (Loud cheers.) Had he been merely concerned with the disposal of a crowd, his action, he agreed, was uncalled for and unnecessary, but if his action was the only way to put down rebellion, no one in that House was justified in condemning him. He called attention to a speech delivered by an Indian lady (Naidu) at a meeting held in London on June 3, who declared that at Amritsar Indian men and women were stripped naked, flogged, and outraged. He represented that to General Dyer, and he

was authorised to say that as far as his knowledge went the statement was totally untrue. What was said at this meeting was the kind of incitement to hostility against our rule in India which came from the extreme section of the Indian community. In Peshawar he had seen posters of an extreme character inciting men to rebellion. On behalf of the Englishmen in the Army and the Civil Service in India who upheld the British flag in very great difficulties, and many of whom, with their wives and children, were scattered over the conntry, miles and miles away from any help, Mr. Joynson-Hicks made a fervent appeal to the House to trust the men on the spot.

Brigadier-General Surtees urged hon. members to remember the effect that speeches and decisions in that House would have upon natives in all parts of the Empire. If British prestige were destroyed the Empire would collapse. In 1865 Governor Eyre saved the European inhabitants of Jamaica by prompt and strong action, for which he was persecuted as General Dyer had been. General Dyer had a similar idea in his mind. Europeans on the spot were the best judges of the situation. "We could not surrender India even if we wished to do so, yet if a plebiscite were taken tomorrow as to who should rule India the result would be against us. If we did not hold India by moral suation we must hold it by force, possibly thinly velied, but undoubtedly by force." He believed that General Dyer, by his action, saved the Empire from serious danger. As Mr. Palmer had rightly said they had a most deplorable speech that day from the Secretary of State for India which would go out to our great Dependency as an encouragement to lawlessness and those forces of disorder which every sane and patriotic Englishman was anxious to see laid to rest in India. His attitude would feed the flames of antagonism against him in a manner which, in his more reserved moments, he would sincerely regret.

Lieutenant Commander H. Young unreservedly supported the action of the Government of India and the Secretary of State. They were dealing simply with a question of the exercise of professional discretion by a soldier. He would fain take every point in favour of General Dyer up to the critical moment of the opening of fire at Amritsar and assume that he was right in opening fire. But as to the continuance of the firing, it was common ground that the shooting was more than necessary to disperse the meeting. It was carried on for another purpose—for the sake of intimidation. That was an extension of the simple, definite, well established rule of the use of minimum of force for the immediate circumstances which ought not to be countenanced either in the interests of officers in charge, for it extended their area of judgment

from the situation immediately before them to the siuation in its widest possible aspect, or in the interest of the civilian population, for whom the rule was the charter for the protection of their lives, liberties, and safety from unduly violent action.

Colonel Wedgwood said the question of importance was whether India was to remain part of the British Empire or not. The Empire could only be preserved by the co-operation of Indians. General Dyer put the safety of English men and women in Amritsar before national honour. That was wrong. His charge against General Dyer was not that he had shot down Indians, but that he had given English history the greatest blot it ever had since the burning of Joan of Arc. Women and children were of no importance. The first thing was English honor. If once India went Sinn Fein it would be all up with the British connection. Rule by force of caste had come to an end in this world. A military raising in India was absolutely impossible under modern conditions. They must take a broad view of the British Empire and turn down for ever the idea that it should be a replica of the Roman Empire. Hon. members would recollect how Macaulay's Lay's ended :

"Then shall be great fear on all
Who hear the mighty name of Rome."

That might have been attractive when we were younger, but it would not do now. In the end they would come to a smash if they failed to utilise their great power of helping other nations.

Mr. R. Gwynne said that the Secretary for War's error of judgment in Gallipoli issued in disaster, while General Dyer's error of judgment according to the Report of the Commission was at any rate successful. But there was no sympathy for him on the part of the right hon. gentleman who condemned him wholesale. As to the Secretary of State for India he had misinformed the House and had repeated things which were not true ; his sympathies had been with those who were opposed to law and order in India, and his prejudices had been against those who had been trying to maintain law and order. Having then traced the course of events in India he asked why the right hon. gentleman did not inform himself when he saw the full report in August, the report on which he now condemned General Dyer.

Mr. Montagu—Does the hon. gentleman suggest that I saw the report in August? If he does, I say it is not true.

Mr. Gwynne.—I asked the right hon. gentleman why he did not inform himself.

Mr. Montagu.—I did not deal with the subject. I am sure the right hon. gentleman does not want to misrepresent me. I thought I had already informed him that I had called for no report from the

Government of India, because in May immediately after the occurrence had happend, we decided to appoint a Committee. I thought then that the best thing to do was to await the findings of that Committee.

Mr. Gwynne, continunig, said that the Government of India declared in their report that General Dyer was justified in the action he had taken, and that he would have been guilty of negligence of duty if had done otherwise. (Cheers) Did not the Secretary for India know of that report? Was he not consulted? If he were not consulted, he was not justified in continuing in office. (Loud cheers) The right hon. gentleman had placed the Government of India in a hopeless position. In their report they said one thing, and the right hon. gentleman, when pressed by his agitating friends, got them to reverse their decision. (Cheers.)

Mr. Montagu.—Does the hon. member say I brought pressure to bear upon the Government of India?

Mr. Gwynne—Their action is amazing if you did not. Why did they suddenly turn round? (Loud cheers.)

Mr. Montagu.—I deny absolutely that I put any pressure upon the Government of India. They waited to receive the Hunter Report, then made their decision and communicated it to me. The hon. gentleman is making many foul charges against me which are not supported by the facts. (Cheers.)

Mr. Gwynne.—Charges are foul when they are made against civilians, but they are not foul when made against soldiers. (Loud cheers) General Dyer is disgraced after 34 years' service without trial. (Cheers) When the right hon. gentleman is criticised in this House he says the charges are foul. At any rate he is not losing his office. I wish he were. (Loud cheers.) If the right hon. gentleman continued in this way, we were going on the right road to lose India. The most graceful thing he could do would be to resign. (Laughter and cheers.) The men who were dependent on him for justice and representation in that House had not been looked after as they had a right to be.

Mr. Clynes (Labour Leader) said that while he thought the Government had gone the right way, so far as they had gone, the Labour members wished to express their appreciation of the tenor of the speech of the Secretary of State for India that day. They felt the minimum of reparation which the people of India were entitled to demand had not been made, and therefore they would go into the lobby, not for the purpose of reducing the Secretary fo State's salary, but to portest against the action of the Government in taking no step to remove those conditions of repression which provoked those incidents of disorder and commotion such as

led up to the unhappy Amritsar affair. If the issue to be decided in the lobby was the murder of these hundreds of Indians and injury to thousands of them under conditions which sent them to to their doom like cattle he felt that they ought to carry with them a very large number of members who did not belong to the Labour Partly at all.

Mr. Bonar Law's Reply

Mr. Bonar Law said he thought that his right hon. friend (Mr. Montagu) was in a false position (Cheers.) for the reason that as he had said the subject was too large to make it right for him to answer personal charges, and it was not possible for him to answer except at the expense of his (Mr. Bonar Law's) taking no part in the debate. He was quite willing to give place to him (Montagu) but he thought it would not be wise (Cheers and laughter.) The House of Commons was always fair. It was entirely wrong to suppose that his right hon. friend was especially responsible without the conjunction of the Cabinet for the policy in India. The first step of the new policy in India was taken before he became Secretary of State.

Apart from this incident the debate had been a painful one for him. It was one of the most difficult subjects which either the House of Commons or individuals could attempt to deal with. It raised issues of precisely the same kind as were raised in regard to Governor Eyre very long ago. The Government had to look at the case, not from one side or the other, but to judge it as fairly as they could and come to a decision which they thought best in all the circumstances for the Army as a whole. This they had done. When he first heard of the occurrence he had that feeling of indignation which had been expressed by many hon. members who took one view of the subject. When it became necessary for the Government to take a decision he had to examine the evidence available, and while on the main issue his opinion had not changed that examination had made him more sympathetic with General Dyer in the difficulties in which that officer was placed. The Hunter Committee, in their Report, said that what was taking place was not a riot but a rebellion. He did not think that Mr. Asquith had done justice to the difficulties of General Dyer. General Dyer's proclamation had been followed almost immediately by the issue of a proclamation by the rebels urging the people to attend the meeting. General Dyer had the right to consider every one at the meeting guilty of open rebellion, and that they were probably there for the express purpose of flouting the Government and showing that the Government could not maintain its power in the city. General Dyer also knew that the British in the city were very few, and that the military

force was very small. He knew there was great danger and every one admitted that there was great danger of their getting entirely out of hand. He had to take all that into account. He had spoken, he hoped, fairly of his view of General Dyer's action but that did not in the least alter his opinion that the action was entirely wrong. The Government was bound to declare that in its opinion it was wrong. (Hear, hear.) General Dyer had himself admitted that though the bulk of the people were there to flout the Government, there might have been many who were not aware of it. The Hunter Commission said General Dyer would have been justified if there was danger of an attack. (Hear, hear.) But General Dyer had said that was not what had influenced him. He was determined before he came there to shoot right away. When a soldier was in the position of representing Martial Law as it was then, if it would have been right from the point of view of the protection of his force to give notice before firing, it was surely his duty also to think of the moral position of the Government. (Cries of "Oh!" and cheers.) Surely it was right to think not only of the immediate military effect, but of the effect on India as a whole. The next ground on which the Hunter Commission criticised General Dyer was that he continued firing long after he should have stopped. With every desire to put himself, so far as he could, in General Dyer's place he agreed with that criticism, and there was no possible justification that he could see for the continuance of the shooting for the length of time that General Dyer did.

It was quite true that probably most of the people who were in the Jallianwala Bagh, almost like sheep in a pen, were there in rebellion, and that if they had the courage and had chosen, they might have rushed the small force, but General Dyer had stated definitely that that was not an element which weighed with him in the feat. His defence was quite different, and it was that defence —he was going to put this solemnly to the House—which above everything else made it necessary for this Government or any Government of this country, if it was to retain the reputation it had always had, to repudiate his action. (Cheers.) General Dyer's defence was that what he did was to produce a moral effect upon the Punjab. If the Government once accepted the principle that in inflicting punishment on anyone they were to consider not merely what the persons were guilty of, but what the effect of the punishment would be on other people, there would be no end to it. (Cheers) It was a principle which was opposed to the whole history of the British Empire and a principle which would never be justified, (Cheers.) He was very sorry that the subject had been treated with so much heat. The Government had tried to deal with it fairly and

justly. There were deadly enemies of British rule in India who made charges which every honest man here and in India knew to be false. Of that he was not afraid, but he should be afraid of doing anything which might give them the right to say that we treated Indians less fairly than we treated other subjects of the Crown. (Cheers.)

The Divisions

The Committee divided on the Labour amendment to reduce the vote for the Sec. of States Salary by £100. It was rejected by 247 votes to 37—a majority of 210. Many members did not vote. The supporters of General Dyer, who occupied the four benches below the gangway on the opposition side, and also members on the Government benches, remained in their places during the division. The minority was composed of Labour representatives and Independent Liberals.

After the numbers were announced, Sir E. Carson rose on the Government side, and, amid loud cheers, moved another amendment to reduce the vote by £100. The Committee divided, and then voted :—

For the reduction	129
Against	230
Rejected by a majority against the reduction ...	——101

The O'Dwyer Outburst

The Notorious Letter

The following is the full text of the letter written by Sir Michael O'Dwyer to the English Press :—

The report of the Hunter Committee, with the views of the Government of India and the orders of the Home Government, has now been published. For the first the broad facts which were long known in India, but were not generally known here are becoming public, and are exciting acute controversy. As head of the Punjab Government at the time I was closely associated with the measures taken to repress what is now admitted to have been a serious rebellion. I gave evidence in January last before the Hunter Committee in India. But there are many matters, arising out of their report and the Government of India despatch which vitally affect, not only myself, but also the good name of the people of the Punjab, and the civil and military officers concerned in the suppression of the disorders, some of whom have been singled out for censure and punishment. I therefore applied to the Secretary of State for India to be given a hearing before the Cabinet Committee which was dealing with these matters, before a decision was arrived at. My request was not acceeded to. The case is now pending before the final tribunal, the British public, and will soon come up for discussion before their representatives, the British Parliament ; and I think it is my duty to put before them some of the main points I would have put before the Government. This is the more necessary as, I understand, my evidence before the Hunter Committee has not been made public, though I asked for its publication.

Constitution of the Committee.

The first point relates to the constitution of the Hunter Committee. The majority of five (all Europeans) consisted of two judges, a general, a member of the Civil Service, who had never served in an Indian province, and a member of a Chamber of Commerce. All of them were able and impartial men ; but none of them had ever served in the Punjab. Moreover, though they were sitting in judgment on administrative and executive actions, none of them had ever exercised administrative or executive authority in an Indian province. They themselves would probably be the first to admit that their investigations would have been more fruitful and their conclusions more weighty, if an officer of administrative experience in India had been associated with them.

What would be thought of a commission of inquiry into the official act of a judge on which there was no member with legal or judicial experience, or of an inquiry into the professional conduct of a medical man in which the medical profession was not represented ?

The minority was composed of three Indian lawyers, belonging to the very class which, as the records of the judicial proceedings establish, was largely responsible for creating the situation that led to the disorders, and which in several cases actively participated in the rebellion. One of them was a leading Bombay advocate (since appointed to the Bombay High Court) who had been refused permission by the Martial Law authorities to come to the Punjab during the rebellion to defend one of the accused.

Hon. Pandit Jagat Nara'n

Another was a leading politician in an adjoining province who in September, 1917, had in a public speech violently attacked the Punjab Government and myself as its head. When some of his statements were challenged by the Punjab Government, and shown to be absolutely without foundation, he admitted that he had based them on wrong information, and reluctantly agreed publicly to withdraw them. The local government in whose jurisdiction he was residing was, however, unwilling to hold him to his offer, and so the matter was left in the middle of 1918.

In 1919 this gentleman was, after reference to the Government of his province, nominated to the Hunter Committee. Directly I arrived in India in December last I pointed out to the Government of India that, whatever his other qualifications might be he could not be regarded as impartial. I then learnt that my successor in the Punjab Government had made a similar representation when the appointment was notified. No action was however, taken. The question was raised by Lord Sydenham in the House of Lords on March 13 and the reply given was that "the appointment of (I omit the name) was decided after consultation between the Government of India and the Secretary of State, and I do not think that (he) was identified with the highly inaccurate speech cited by the noble lord, nor can I speak positively as to the identification." There should, however, have been no doubt as to the identification after November last.

As might have been expected, this gentleman showed himself throughout the proceedings in the role rather of prosecuting counsel in regard to the officers of Government than of an impartial investigator, and his attitude was the subject of bitter comment in the Press. He took a substantial share in the framing of the minority

report, which has obviously influenced the Government of India and the Home Government in their conclusion, especially in regard to the conduct of officers exercising martial law.

Can it be contended that a Committee, which contained no member of Indian administrative experience, and at least one member whose bias against the administration chiefly concerned had already been exhibited, fulfils the conditions stated in paragraph 22 of the Government of India despatch, viz. that the Committee "should be a body of commanding weight and high judicial experience, in which perfect confidence could be reposed by the public both at home and in India?

Scope of the Inquiry

The next point to be noticed is the scope of the inquiry. It is matter of common knowledge that the agitation against the Rowlatt Act led to the first outbreak at Delhi on March 30, 1919. This was followed, after a short interval, utilised to promote an intense anti-Government and anti British feeling, by simultaneous outbreaks in various places in Bombay and the Punjab, and also in Calcutta, on or about April 10. The rebellious movement spread north through the Punjab along the railway into the Frontier Province, where, at the end of April and early in May it synchronised with the Afghan aggression and the tribal risings, both of which, there is ample evidence to show, were directly encouraged by the action of the revolutionaries in the Punjab. A serious outbreak at Peshawar was averted only by the prompt measure taken to surround the city with troops and remove the local ringleaders, who were being supplied with money and incendiary literature by the Amir's agent. Many think that the Peshawar manifestations were the most serious of all; and the Chief Commissioner wrote to me at the time that a serious outbreak there was averted not only by the action taken locally, but by the news of the prompt suppression of the rebellion in the Punjab. Yet the outbreaks at Calcutta and Peshawar were by the terms of reference, excluded from the consideration of the Hunter Committee.

Delay in Starting the Inquiry.

Another vital point is the delay of six months between the suppression of the disorders and the commencement of the inquiry. That delay seriously prejudiced the investigation. It gave opportunities, of which the extremist agitators from outside made the fullest use, to pervert the real facts, intimidate witnesses, overawe the loyal supporters of Government to spread abroad the impression that there had been no serious disturbances, and that such minor outbreaks as had taken place were due to the repressive measures of

a harsh Government which had pursued a policy of compulsion in regard to recruiting and the War Loan, and a savage vindictiveness towards the educated classes, whom it had antagonised. This vigorous counter-offensive, pushed with great skill and persistence, had produced extraordinary results, both in India and here, by the time the Hunter Committee began its work.

Had the inquiry started directly after the disorders were suppressed the true facts could have been fully and easily ascertained. Lord Sydenham's letter in the Times of June 1, 1920 brings out how at the middle of May 1919, when the memory of events was still fresh, the feeling of all classes in the Punjab, as expressed in their leader's addresses was one of intense relief at the prompt suppression, by the effective methods of martial law, of outbreaks which threatened to involve the whole province in bloodshed and which many of them regarded as the result of an "organised conspiracy." It may be noted here that both Mr. Gandhi and Mrs. Besant used similar language at the time. But, as the memory of the horrors from which they had been saved grew faint, as the forces of agitation and intimidation came into operation, and the policy of government towards the promoters of rebellion showed a violent alteration, the views of the weak or wavering changed. A leading Mahammedan gentleman in the Punjab in May, 1919 took a prominent part in presenting an address from the Mohammedans of the province to the Lieutenant-Governor, stating that the riots and disturbances were the result of an "organised conspiracy," but that "the situation was soon got well in hand by using the speedy and effective methods of martial law ; and peaceful life is once more possible for the law abiding citizens of our chief towns." In May, 1920, this same gentleman, now a member of the Government of India, considers (see paragraphs 21 and 36 of the Government of India Despatch) that "there being no organised or preconceived conspiracy to subvert the British rule behind these disturbances there was no open rebellion as alleged and no justification in consequence for the proclamation of martial law." He has also the hardihood to add that "the disturbances on and after April 14 in the districts of Gujranwala, Gujrat, and Lyallpur were the result of the commotion caused by the Jallianwala Bagh affair"

His views, as those of the only Indian member of the Government of India and the only one who dissents from his colleagues, have perhaps influenced the decision of the Home Government, and make it necessary even at this late stage to show what they are worth. Fortunately, they are not typical of those of the great mass of people in the Punjab, who, in war and in peace, have proved themselves true to their salt and true to their word.

Points not Investigated

The next point I wish to bring out is that, even within the limits allowed, the Committee's investigations did not cover all the ground. I know that in Lahore there were several witnesses of high position and reputation who had personal knowledge of the outbreaks and were ready to depose that these were the result of an organised conspiracy. They were not, doubtless owing to lack of time, given the opportunity.

But a much more important omission is this. A Committee appointed "to investigate the recent disturbances, their causes, and the measures taken to cope with them" would naturally be expected to examine the records and findings of the tribunals which tried the hundreds of men charged with the more serious offences, viz., waging war, murder, attempts to murder, robbery, arson, derailing trains, removing rails, damaging telegraph lines, wrecking postal and telegraph offices, and causing in a few days damage to the extent of over a quarter of a million sterling in the Punjab alone. There were four such tribunals, each composed of three judicial officers of experience, and two of them were presided over by judges of the High Court. The Committee, however, refused to take into consideration the findings of those tribunals, though they agree with the description of their proceedings as "lengthy, detailed, and careful."

Probably the Committee were influenced by the fact that some of these judgments were under appeal to the Privy Council, which has, however, since up-held the validity of the proceedings. But the Committee's decision has shut out from their purview what many regard as the most convincing evidence of the general nature of the conspiracy. If you find similar acts of rebellion and disorder committed almost simultaneouly, over places thousands of of miles apart, and the modus operandi is in almost every case the same, surely there are strong grounds for assuming that, as Mr. Gandhi said at the time, "there were clever men behind the lawless deeds, and they showed concerted action."

The Hunter Committee may have been quite justified in their conclusion, viz., "on the evidence before us there is nothing to show that the outbreak in the Punjab was part of a prearranged conspiracy, to overthrow the British Government by force." But it is pertinent to ask—if they had considered all the evidence available, not only in the Punjab, but in other provinces (including Peshawar and Calcutta), would they had arrived at that conclusion?

Neither the Government of India nor the Home Government appear to have come to any definite finding on the question of an organised conspiracy, though the former say that the extended

area, over which offences against the railway and telegraph were committed, gives rise to a "suspicion of preconcerted action." Up to now we have not, I believe, been able to trace clearly the organisation behind the Mutiny of 1857. The outbreaks of last year were in some ways more serious, because they were more widespread at the start. But they collapsed speedily, because prompt measures were taken by the Government, the Indian Army remained staunch, in spite of persistent attempts to tamper with it, and the 150,000 demobilised men in the Punjab and the rural and martial classes were actively loyal.

I may give one illustration how the Committee's conclusions are weakened, and the cases of individual officers may be prejudiced by their excluding the judicial findings from consideration. Much controversy has centred round the nature of the meeting at the Jallianwala Bagh on April 13. General Dyer's action in dispersing it was necessarily affected by his conception of its composition and objects. The Committee have thrown little light on these points, but condemn General Dyer for opening and maintaining fire on unarmed crowd of 10,000 to 15,000 persons. A reference to the judgment of the tribunal in the Amritsar conspiracy case, which was presided over by a High Court Judge, shows that the organiser of Jallianwala meeting of April 13 was Dr. Muhammad Bashir, who had taken a leading part in the acts of rebellion on April 10, had led the mob, of which he was a recognised leader from April 10 onwards, at the attack on the National Bank, and had incited them to the brutal murder of Messrs. Stewart and Scott. After this, can there be much doubt as to the object of the great Jallianwala Bagh gathering on April 13, assembled in defiance of repeated proclamations, or of the necessity for immediate and drastic action in forcibly dispersing it?

Premature Amnesty

It may be noted that the Tribunal, after full consideration of the case of Muhammad Bashir, decided that only the death penalty would adequately meet his offence. The death sentence was however, soon commuted; within a few months he was set at liberty under the amnesty proclamation, and he is now Secretary to the local Muslim League and prominent in the Khilafat agitation!

Surely the royal clemency was never intended to apply to criminals of this type? This particular case is, however, only typical of scores of others which the promoters of rebellion and disorders who had been sentenced to transportation or long periods of imprisonment, have been set free by the executive, with what loyal and thoughtful Indians regard as dangerous haste. Those men are now

welcomed as heroes and martyrs by the enemies of the British rule, and so far from showing any change in their hostility to Government, are often foremost in denouncing those to whom they owe that release.

The Government of India in paragraph 42 of their despatch note that out of a total of 1,779 persons convicted in connection with the disturbances, all had been released by February last, except ninetysix of the worst offenders. Whether this wholesale amnesty was justified in itself, or is conducive to future peace and tranquillity, is a matter of opinion. Anyhow, the action of Government in releasing them has been interpreted, by them and others, as an admission that they were guilty of no offence, and in such circumstances it is only natural that loyal men should be slow to come forward to depose against them.

Sentences of the Tribunals

Both the Government of India and the Hunter Committee comment on the fact that the sentences of the tribunals were, in the popular opinion, needlessly severe. Here again, references to the judicial records would have shown that the tribunals, under general instructions from the local government, invariably referred to cases in which they considered the sentences ordained by law to be too severe, and that the local government invariably gave effect to the recommendations.

Some people think that when reduction or remission of the sentences imposed by the Courts is thought advisable, previous consultation with judges concerned is preferable to wholesale interference by the executive with the proceedings of the judiciary. Such interference is becoming very common in India : it places the judges in an invidious position ; and it strikes at the roots of any sound judicial system. The judicial officers selected for the special tribunals had to face a task of enormous magnitude. They discharged their thankless office with admirable promptitude, impartiality and ability. Nowhere have I seen a word of recognition of their labours by those in authority, and, as a contemporary witness, I should like to say that the people and Government of the Punjab are under a deep obligation to them.

Martial Law and its Operation

The Government of India in paragraph 41 of their Despatch, arrive at the conclusion that "the administration of martial law in the Punjab was marred in particular instances, by a misuse of power, by irregularities, and by injudicious and irresponsible acts." They undertake to take action against the officers (the names are given) whose conduct has been criticised and condemned. This

decision is accepted and emphasised in the orders of the Secretary of State.

Now, in justice to the officers in question, who were suddenly called upon to exercise novel and unpleasent responsibilities without any adequate instructions to guide them, their position should be made clear. In a telegram of April 16 the Punjab Government, with a view to preventing any such irregularities by inexperienced officers, formally proposed a detailed scheme for keeping the administration of martial law under the control of the civil authorities, and had indeed, begun to give effect to that scheme. This, in fact, is the very system which the Hunter Committee, the Government of India, and the Home Government now regard as essential to the proper administration of martial law. But the Government of India in their telegram No. 541, dated April 18, refused to accept our proposals, and held that "martial law having been declared. . . all further power of prescribing offences, penalties, courts, and procedure for trying the same, are vested in the General Officer Commanding, and he only can exercise those powers. There is thus no power in the Lieutenant-Governor to take the line proposed in your telegram. They suggest any action already taken should be ratified by the General officer Commanding."

The Punjab Government had reluctantly to give effect to these orders. The result was that officers, military and civil administering martial law were deprived of the benefit of authoritative advice and guidance from the Civil administration.

Is it just that in these circumstances they should be punished for irregularities due to ignorance, novel conditions, or even to excessive zeal? The Government of India appear to have overlooked this correspondence. The Secretary of State in Paragraph 8 of his despatch, refers to it when he says that I "had evidently contemplated arrangements by which civil officers would be accorded a recognised position to advice on military administration." I went far beyond "contemplating" such arrangments ; I had actually introduced them, but had to conceal them under superior orders.

Delay in Disclosing Facts

A most important point is the delay in acquainting Parliament, the public, and the press with at least the broad facts of the disturbances. Nothing has done more to prejudice the case of General Dyer and the other officers administering martial law with the Press and public at home than the suspicion that things had been done by them which could not stand the light of criticism, and which were therefore concealed or minimised by them or by the authorities in India.

There is absolutely no foundation for such a suspicion. As regards the Punjab, I can state that the facts of the various outbreaks and the measures taken by General Dyer and others to deal with them were communicated day by day as fully as known to the Government of India, and doubtless by the Government of India without delay to the India Office. I left India after the outbreaks at the end of May, 1919, and arrived in London on June 28. On June 30 I had a long interview with the Secretary of State, during which we went over all the main facts of the outbreaks at Amritsar and elsewhere, and discussed General Dyer's action in detail, including the Jallianwala Bagh and the "crawling" order. Indeed, in regard to the latter Mr. Montagu was able to tell me that he had already seen my letter of May 1 to the Viceroy.

At the time, I probably knew as much about the situation in the Punjab as anyone at home or in India. I put all my information at the disposal of the Secretary of State, and also of Lord Sinha, Sir T. Holderness, and others at the India Office. The impression I then formed (in June and July last) was that as regards all the main facts the India Office was quite as well informed as I was; though I was naturally able to explain certain points, e. g., the reasons for using aeroplones at Gujranwala, and for the exclusion of legal practitioners from other provinces by the Martial Law authorities, and the treatment in gaol of the editor of the "Tribune," regarding which Lord Sinha had received many representations.

I was in London up to November, excepting the month of August, and was working at the India Office as a member of the Esher Committee; so that I was easily available to furnish any further information. Indeed, all that time, my endeavour was to impress on the authorities at the India Office gravity of the situation in the Punjab, which to my mind they had not then sufficiently realised.

Soon after my return to India I saw a Reuter's cable of Dec. 16, which made the Secretary of State say "he did not know the details (of the Amritsar occurrences) until he saw reports in the newspapers" (end of November) which were profoundly disquieting. I at once wrote (on Dec. 30) to the Secretary of State, reminding him of the details of our conversations in June and July. I quote from that letter in so far as it bears on General Dyer's case.

"In writing all this I am less concerned with my own responsibility in the matter than with how others may be affected by any misunderstanding or obscurity. Dyer, at the first interview I had with him on April 16, told me everything as frankly and fully as the limited time I could spare him (when there was rebellion all round) would allow. I did my best to repeat his version, with my own views and comments, to you and others at the India Office on the

very first opportunity. If I did not do so fully enough, then the fault is certainly not his, but rests either with me or with those who were questioning me. But, as I have already said, there was, even as far back as June 30, little room for doubt as to the substantial facts, viz, the circumstances in which he opened and maintained fire on the prohibited assembly on April 13 causing death casualties which, at the time, he roughly put at about 300, but which the complete up-to-date inquiries put at 379."

Leading points in the case.

I have brougt forward the above facts in hope of throwing light on certain matters which are still somewhat obscure and of securing a full and equitable consideration of the cases of those officers whose action has been censured or condemned.

I have no criticism to offer on the findings of the majority in regard to myself except that I still adhere to my opinion, which the Government of India and the Home Government appear to accept, that General Dyer's action at Amritsar on April 13 smashed the rebellion at its source, and thus prevented widespread bloodshed, rapine, and the murder of Europeans in the Punjab and probably elsewhere. In the words of the majority "a movement which had started in rioting, and become a rebellion, might have rapidly developed into a revolution."

The points I do wish to bring out are—

1. That the composition of the Hunter Committee as a whole was defective, and the minority was not impartial.

2. That the interval of six months between the disorders and the commencement of the inquiry seriously prejudiced the results in a manner unfavourable to the officers concerned.

3. That the scope of the inquiry was unduly limited by the terms of reference which excluded Calcutta and Peshwar.

4. That even within the limits assigned, the Committee did not cover all the ground, having omitted from consideration the judicial findings in the conspiracy and other trials.

5. That, consequently, their conclusion that, on the evidence before them, there is nothing to show a pre-arranged conspiracy is of little value.

6. That, similarly, their condemnation of the sentence of the Martial Law Commissions as unduly severe, is not justified.

7. That, the officers engaged in repressing the disorders have been prejudiced by the delay in publishing the broad facts regarding outbreaks—a delay for which they were in no way responsible.

8. That condemnation (especially by the minority) of officers for irregularities in the administration of martial law is not justified,

in view of the fact that they were denied the benefits of civil advice and guidance in the exercise of novel and difficult responsibilities.

I have only one remark to add. Neither in the Hunter Report, nor in the Government of India despatch, nor in the Secretary of State's reply is there any condemnation of the conduct of those who fomented the disorders,and are primarily responsible both for the blood-shed, which all right-minded men deplore, and for any hardships which the introduction of martial law entailed. Those who had the arduous task of repressing those disorders, who were at the time assured of the full 'countenance and support" of the Government of India, who did their duty according to their lights and speedly crushed the rebellion, have a right to expect a definite decision as to whether they acted rightly or otherwise. The rather halting expressions of opinion now on record are unsatisfactory, both to them and to the public here and in India.

Our officials in India are the agents of the Imperial Parliament. They have not only to deal with the small educated minority, who are able to make their voices heard in India and in England, but to safe-guard the interests of the voiceless millions, till such time as those are in a position to protect and speak for themselves. In this arduous and often thankless task, they have to face constant obloquy and mis-representation; they are not allowed by the rules of the service to defend themselves, and have to look, sometimes in vain, to others to defend them. In the last resort, they look to the Imperial Parliament for the final judgment.—Yours, &c.,

M. F. O'DWYER,
Late Lieut-Governor of the Punjab.

Reply of Dr. H. M. Bashir

of Amritsar

Dr. Hafiz Muhammad Bashir of Amritsar sent the following letter to the press.

"One had liked to believe that after such a thorough exposure and a strong condemnation even by responsible men of his own kith and kin, of the 'Prussianism' practised by Sir M. O'Dwyer during his holding the highest office in the Punjab, the gallant Sir Michael would prefer a quiet corner unexposed to public gaze, to ruminate and perhaps even to repent, nay to shed a tear or two in remorse for the atrocities perpetrated on a race which has always and specially recently spilt its precious blood in abundance to maintain the dignity of their august Sovereign. But to expect this from a man of Sir Micheal's dispositon is to expect impossibilities. The already impossible task of forgetting him is being rendered still difficult by his persistent campaign against the Punjabis. He had adopted a strong attitude of hostility against the educated community of Punjab in particular and of India in general. An educated man was to him as a red rag to the bull in the council, and outside, in Darbars, in public functions wherever and whenever he opened his lips the 'agitator' in his mind was synonymous with 'disloyal.' Who can ever possibly forget the immense wrong done to and immediate injuries inflicted on this community? Hundreds of them were handcuffed, fettered, locked in solitary cells, insulted and humiliated. Thousands of hearths and homes were broken up and devastated by acts of tyranny and high-handedness perpetrated in the name of Law and Justice. The unjustifiable cold and calculated massacre of hundreds, of His Majesty's most loyal and law abiding subjects, rendering their children homeless and penniless dependants for their mere existence on the charity of the nation has now been proved beyond doubt even out of the gallant knight's own mouth to be due to him more than to General Dyer. While the arm that played the havoc was that of the General, the brain that actuated it was surely Sir Michael's. These and a host of other acts of kindness and mercy have immortalised his name which will be handed down to posterity as that of one of the greatest benefactors of the Punjabis. I wonder why he took so much pains to get 'addresses' engineered and why many of the Punjabis were forced to eulogise him against the dictates of their conscience. There is none among the living or the dead whose memory shall be cherished with more devotion and love than of this the real friend of the Punjab. The innumerable heavy groans and heart-rending grumblings and the superabundance of sighs coming out of our hearts every day bear a clear

testimony to my assertion. The stealthy way in which he had to leave the province over which he had a despotic sway for years so 'unwept, unhonoured and unsung" is the highest recognition of his popularity that the province could show to him.

"Not content with what he has done during his 'regime', this exsatrap cannot even now control his warth and instead of showing even the slightest compunction for what he did, he yet revels in extolling his own deeds and takes delight in singing his own praise. While doing so he has been hurling stones and flinging abuses at all those who have the misfortune of differing from him. Even Mr. Montagu—who in his zeal to keep up the so called prestige of the Government has lavishly showered praise on him who deserves strong censure, and who has by commending instead of condemning, by approving instead of severely criticising, the methods of Sir Michael has forfeited a good portion of the confidence of the Indians—has not been spared and has had rather a rough handling at the hands of this despot. The Indian Members of the Hunter Committee had their share and perhaps to spare. They have put in a dignified protest and the courteous retort offered by them might act as an eyeopener for him. I had hoped that he would not touch the Martial Law convicts who had had enough of kindness and attention already at his hands. But no, that could not be, and I have had the honour of being noticed by him in his well known letter published in many papers of England and India.

A Categorical Denial

To make an attempt to clear my conduct in the eyes of those who are biased beyond measure and to whom every worker in the public cause is a terror will be a hopeless task, but I must be permitted to put in a word or two to avoid further mischief. In the first place I categorically deny all the charges levelled against me. I believe and believe most strongly that the meeting of the 13th April in the Jallianwala Bagh was perfectly an innocent one, secondly, had I been the convener of that meeting, it would not have been a matter of shame for me to acknowledge it. But as the actual facts stand and even the Police records show I had nothing to do with that meeting. It was arranged by Hans Raj, who became an approver afterwards, but who knows whether even at that time he was under the thumb of the Police or not. It is now an open secret that the name of our distinguished townsman (L. Kanahya Lal) was used to attract a large audience and thus to afford to the military a pretext to shoot and to shoot well and to reap a good harvest. Here in Amritsar some well informed people are of opinion that the theory of the meeting being specially organised by men inimical to the interests of the country can not be carelessly thrown away. Any way I deny

the responsibility of organising that meeting and in that I am supported by even the evidence of the opposite party. Even the judicial finding which in those days was an euphemism for prosecution story declares that I was not present at that meeting and that I am not at all responsible for anything that happened there.

"As to my being present at the National Bank at the time of the outrages committed here, I emphatically repudiate the charge and I must frankly admit that my faith in British justice is considerably attenuated when I find that such a serious charge against me is considered to be established on the absolutely false and flimsy evidence of approver Hans Haj, a man of no social status . . . . If this Hans Raj was an embodiment of veracity and his word was gospel-truth then why not were his bombastic and ludicrous theories of Afghan war and burning of European bungalows believed and why was not Mir Magbul Mahumud, pleader, placed in the dock charged with the same serious offences as I was? To believe a dismissed ticket collector, removed from service on account of tampering with cash and to base conviction on such an unreliable evidence could be possible only in Martial Law days. Even now he is in the employment of the Government, a reward meted out to him for his fabricated and false evidence involving many respectable and innocent people.

I was condemned to gallows on the evidence of this absolutely demoralised creature, and the beauty of the whole affair was this that not only there was no independent witness to corroborate him, and there were reliable independent witnesses to contradict him, but even the Police hirelings and the so-called eye witnesses did not depose against me and never mention my presence there. On the solitary statement of a hopelessly false witness I was sentenced to the extreme penalty provided by Law. To say that justice was being administerd in those days is a clear travesty of language, or the word "justice" must have then acquired a new meaning. The repression that was rampant then, the lawlessness that was the order of the day, had forbidden "justice" like the legal practitioners from outside the Punjab, from entering the sacred precincts of the Punjab which was being administered with naked sword. Justice is already a very rare commodity when it is a question between the executive and the people, but it had become rarer and perhaps evanescent in those days. If I were to make an attempt to des ribe how 'justice' was doled out to us by the High Court Judges and others in whose hands our destinies were then placed I think I would send a thrill of horror and indignation through all right minded people. To deduce any conclusion from the convictions and sentences passed by Tribunal, even though presided over by the High Court Judges, is to exceed all reasonable limits of fairness.

"I have been released in obedience to the orders contained in the Royal Proclamation for a fairly liberal interpretation of which our sincere thanks are due to Sir Edward Maclagan, our present Lieutenant Governor, who is striving his utmost to remove the ill-effects of the oppressive 'regime' of his predecessor. To taunt me and my colleagues on our release is to aggravate our feelings. Innocent people injured, insulted and deprived of their liberty can not be very jubilant over their release and can not prostrate themselves before those gods who now wish to take creditf or the framing of the Proclamation, and yet who can not conceal their chagrin at the release of the persons who are an eye-sore to men of Sir Michael's type. My position briefly put is this. I was never a party to any deed or idea of violence against Government or for the matter of that, against any party or person. I firmly believe in straight forward methods of political agitation and hate and detest all ideas of secret societies or conspiracies. Constitutional agitation to me is my birthright and I have no intention to desist from it even at the risk of being exactly treated as before. Sir Michael is right when he says that I am the Secretary of the Muslim League and prominent in Khilafat Agitation. If these too are crimes and offences and can form counts of indictment then adieu to all desire of political advancement and emancipation. We are in the deep mire of servitude and servility, and if to make constitutional efforts to get out of it can be dubbed as 'disloyalty' then there is an end to all aspirations and ambitions raging amongst us. Khilafat is to me as the breath is to the body and I can possibly brook no interference with my religion, and I shall, as long as it is possible for me to do so strive in my humble way to carry on this agitation.

"Sir Michael chaffs at our being treated as heroes. It is quite true that I do not deserve the praise the nation has been kind enough to bestow on me, but who can change the tide of popular enthusiasm, which, to a sane man clearly indicates that Repression can never throttle popular desire for furthering the interests of the Motherland. Persecution leads to the deification of the ordinary mortals and if I have been lucky enough to get a share of the nation's love, why should Sir Michael take it to heart? Sir Michael ought not to lose sight of the fact that the replacement of gallows by garlands is a necessary outcome of the phase of tyranny and oppression through which we all had perforce to pass.

The Dyer Debate

In the House of Lords.

July 19th, 1920

There was a large attendance of members and peeresses in the House of Lords. Lord Finlay brought up a motion deploring the conduct of General Dyer's case as unjust to him and establishing a precedent dangerous to the preservation of order in face of rebellion. He contended that General Dyer was justified in firing on the crowd at Amritsar without warning owing to the defiant attitude of the assemblage and widespread insurrectionary movement in the neighbourhood and declared that General Dyer had been condemned by the Govt. without trial on misconception regarding a soldier's duty.

Lord Finlay in bringing up his motion declared that one of the mainstays of the Empire in the past had been the feeling of every officer that when he was called on to take action in times of difficulty, so long as he acted honestly in discharge of his duty, he could rely upon people at home standing by him. If the suspicion were created that the officer who had done his duty would be thrown over, the ill-effects of such a feeling on the public services could not be exaggerated. He maintained that Mr. Montagu's view that General Dyer ought to have regarded only the local effect of his action was erroneous and contended that the disturbance at Amritsar was part of a wider insurrectionary movement and General Dyer was bound to consider the effect of his action on the whole district affected by that movement. With regard to the Hunter Commission's statement that evidence was insufficient to establish the existence of an anti-British conspiracy, Lord Finlay declared that anyone examining the evidence must come to an entirely different conclusion. Amritsar was the centre of the disturbance, the situation there was indeed formidable, it was a sacred city of the Sikhs and the vital link in the railway communication. If the railway system had been cut it might have most disastrously affected Govt's ability to deal with the Afghan situation. General Dyer was a very able officer. He had shown that he was eminently humane and that he would strike hard when necessary, but nobody had shown greater averseness to the unnecessary use of force. General Dyer found a very great crisis at Amritsar and he took every possible step to warn the population and endeavoured to secure obedience to the law without recourse to arms. He strongly criticised the suggestion that General

Dyer should have given additional warning before firing. He declared that the crowd was there because it was determined to defy the proclamations. Mr. Montagu's statement that the omission to give the warning was inexcusable was most extraordinarily frivolous. Parleying under the circumstances would have been useless, perhaps fatal. Had General Dyer hesitated, the rebellion might have acquired an irresistible momentum. With regard to the charge that General Dyer fired too long, Lord Finlay contended that it was not a case of frightfulness upon innocent people. General Dyer had to deal with a guilty mob determined to defy the Government and he was bound to consider the whole situation.

Lord Finlay emphasised that thanks were showered on General Dyer, the Government had promoted him, he was universally regarded as the saviour of the Punjab, even the Sikhs had conferred on him the unprecedented honour of making him a Sikh. He further protested against the gross abuse of appointing strong partisans as members of the Committee of Enquiry. He said no partisan of General Dyer had been appointed on the Hunter Committee. General Dyer had throughout been placed at every disadvantage. This was one of the greatest flaws in the whole procedure. The result was that General Dyer had been ruined. Surely it was unnecessary to brand him as had been done. He might have been employed if not in India, then elsewhere in the Empire. He had been condemned without trial on a misconception of the duty of the soldier who had to deal with a local disturbance which was part of the general insurrection. He concluded by strongly criticising Mr. Montagu for impugning the humanity of General Dyer with regard to helping the dying and the wounded. He declared that the Commission's report was tantamount to the acquittal of General Dyer in that connection.

Lord Sinha

Lord Sinha in the course of a faltering speech said that he feared that silence by him might be misconstrued both in Great Britain and India. On behalf of his Indian fellow countrymen he expressed deep horror and regret at the abominable outrages committed at Amritsar, Ahmedabad and elsewhere in April of last year. He also expressed his countrymen's deep resentment and indignation over the humiliation inflicted and the indignities heaped on some of their countrymen in the Punjab in the course of the administration of Martial Law there. His fellow-countrymen desired vindication of principles, not punishment of individuals. The events in the Punjab in April had aroused a controversy prolonged beyond the limits of safety. He feared dangerous fued without end, unless both parties dropped the question and let themselves accomplish the great task of peace and reconciliation so

ably begun by Sir Edward Maclagan, the present Lieut-Governor of the Punjab. Lord Sinha regretted that Lord Finlay had considered it fit to cast unmerited aspersions on the Indian Members of the Hunter Committee. He submitted that two points of view were possible with regard to the introduction and continuance of Martial Law, but only one view was possible as regards Jallianwalla Bagh. He denied that the Government of India at any time held the opinion that General Dyer's action at Amritsar was justified, and repudiated the somewhat dangerous suggestion that they deferred to Mr. Montagu's or the Imperial Government's wishes and altered their original view regarding General Dyer's action. Such suggestion was absolutely unfounded. General Dyer's promotion referred to by Lord Finlay arose from the Afghan war where he gave such a good account of himself, and before the Government of India had anything but General Dyer's own meagre reports with regard to Amritsar. He submitted that it was incorrect to say that the Government of India, by any member in the Legislative Council last September, had in any way approved, justified or condoned General Dyer's action. Lord Sinha emphasised that the Government of India's views as regards General Dyer had been founded on the findings of the Hunter Committee and had never been modified.

Referring to interviews with Sir Michael O'Dwyer at the India Office in June of last year, Lord Sinha said that the matters discussed were entirely unconnected with the Amritsar firing on April 13th. He only knew at that time that a collision had occurred between the troops and the mob with heavy casualities and inferred that the mob was of the same kind as committed outrages on April 10th previously. He characterised as a most monstrous and undeserved charge the suggestion that the Indian Members of the Hunter Commission had been imbued with partisanship. He declared that most of General Dyer's damaging statements in cross-examination were not made in reply to the astute native (!) lawyers but to Lord Hunter and Mr. Justice Rankin. He regretted that hardly any importance had been attached to the list of acts done in the course of the Martial Law administration in the debates up to the present and that attention had only been concentrated upon the question of propriety of General Dyer's treatment. That, His Lordship thought, would cause misunderstanding and create a wrong impression in India. He controverted the argument that General Dyer's action in the Punjab had saved the Punjab but he hoped that, even if that were so, none of their Lordships would endorse the doctrine that the end justified the means. It would be most highly dangerous to assent to such a doctrine. Not a single Indian believed that the situation was the same as in 1857. He did not know any person in authority in

India who would advance that argument. He concluded with an appeal to his fellow-countrymen to take the lesson to heart set by the Hunter Committee's unanimous condemnation of the Satyagraha movement, which he characterised as dangerous. He asked them to dissociate themselves from a similar pernicious movement started by Mr. Ghandi, otherwise called non-co-operation. It would only lead to the same disastrous results as Satyagraha. The more reasonable sections of Indians, by far the largest majority, had already dissociated themselves from it and if the Government of India were only allowed to pursue the present wise course, he doubted whether there would be a single Indian, Hindu or Mussulman, who would subscribe to or act upon that doctrine. Another lesson was to be learned by the Government, namely, the policy so successfully pursued in the United Provinces by Sir Harcourt Butler, in Bombay by Sir George Lloyd and in Bengal by Lord Ronaldshay. His Lordship would not interfere too hastily or violently in agitation of this nature but would let it kill itself in idleness. It could not last, and was against the interests of the people themselves. Ruthless repression and coercion would result in disorder equally with passive resistance and direct action. He asked his fellow-countrymen to cooperate as far as possible with all sections of the community, both European and Indian, in order that the large and benevolent scheme of Reform just launched might result in a progressive realisation of Self-Government in India, which had been declared to be the object of the Imperial Government.

Lord Middleton said that while what the Government had done as regards General Dyer might not be against military law it was against military etiquette and precedent. The highest authority laid down that when an officer was incriminated his offence was subsequently condoned if he subsequently went into action himself well.

In the course of the second day's debate on the Dyer case in the House of Lords, on July 20, 1920, Lord Curzon on behalf of the Government said that he hoped that the House would not dissociate itself from the unanimous verdict of the high authority who had hitherto dealt with the matter and would not thereby send a message to India which he was firmly convinced would be a source of the greatest apprehension if not worse there. He dwelt on the importance and respect due to the views expressed by Lord Meston who strongly supported the steps taken by Government. He was glad that the debate had enabled some of the existing misapprehensions to be disputed such as General Dyer's alleged promotion after Amritsar. Dyer was Brigadier-General in the Afghan war and subsequently. Lord Curzon also referred to the dissipation of the suggestion that pressure was brought to bear on the Commander-in-Chief in India or the Indian Government or that the latter modified its views. He

defended the Government of India from irresponsible criticism. He admitted that General Dyer was possibly at a disadvantage before the Hunter Committee at the hands of a skilful Indian Council, but said that the Government's case rested with General Dyer's answers to questions by the Chairman of the Committee, Lord Hunter, and on statements in his own declarations, particularly on the published statement he drew up a few weeks ago. The two aspects which chiefly struck his Lordship were the crawling order and the happenings at Jallianwallah Bagh when the case came up before him as a member of the Cabinet, because he was convinced that those incidents had impressed themselves indelibly and produced much of the trouble to which Lord Meston had referred. In the course of his long experience in India he had been more than once involved in troubles and crisis of racial aspect. That experience was burnt into his soul, but he had emerged from it all with the unshakable conviction that only upon certain principles could any administrator of India, civil or military, honourably take his stand.

Lord Curzon said that he had noted that most of the provious speakers had only lightly touched upon the crawling order. He declared that if General Dyer's explanation of it before the Hunter Committee was to be accepted then it was a very vicarious form of punishment because most of the people who submitted to it were ordinary inhabitants of the street by means of which they were able to gain only exit from their houses. Also this punishment was inflicted on April 19th for crime perpetrated on April 10th, and moreover, people arrested on minor chagges in the different parts of the town had been subjected to this humiliation. Regarding the crawling order the explanation in General Dyer's recent statement, namely, that his order meant that the street should be regarded as the holy ground which was as well understood by Indians, was an afterthought if not an absurdity. Lord Curzon described the manner in which an Indian pays penance in order to mark the difference from crawling action. General Dyer's action in this connection was impossible to excuse despite the extreme and intense provocation. The subsequent explanation was inconsistent with the facts. He then proceeded to examine the Jallianwalla Bagh affair and refuted at length Lord Finlay's presentation of minor facts and submitted the version based on the evidence of General Dyer himself and the Deputy Inspector of Police and his Brigade Major. He had only discovered one reference in the whole of the evidence on which the theory that the crowd was armed with lethal weapons appeared to rest. He described as a very dangerous doctrine General Dyer's explanation of his action that he wished to produce sufficient moral effect throughout the Punjab. That meant that any officer would be entitled to apply the

maximum rather than the minimum degree of force in a similar situation if he only cast eyes away from the arena in which he was acting and looked over a sufficiently wide field beyond. If that doctrine was applied to the quelling of any civil riot in England and if such action were taken and condoned, would any British Government stand for forty-eight hours in office? Lord Curzon then proceeded to develop his arguments against the contention that General Dyer saved the Punjab by his action, expressing the opinion that General Dyer no more saved India by the massacre at Amritsar than you could defeat the Bolsheviks or save Russia by a massacre at Odessa or Warsaw. He profoundly mistrusted the theory that General Dyer saved the Punjab by his exertions. He altogether denied that he had saved India by his example and the Government could not possibly accept Lord Finlay's theory that so long as an officer acted honestly in difficult circumstances he could rely on his superiors standing by him. To General Dyer sympathy could be given without stint but not necessarily support. He however paid a tribute to General Dyer's high personal and professional qualities and recognised that the respect felt for him had been manifested by the Sikhs. Lord Curzon did not desire to minimize the gravity of the situation which had existed and he quite understood how the temper of any man might be aroused by a series of shocking outrages, but what he condemned was General Dyer's conception of his duty which was altogether a wrong conception. He appealed to the House not to condone General Dyer's error and lower British standards of justice and humanity.

Lord Milner.

Lord Milner deplored the debate as likely to harm national interest. He declared that the suggestion that injustice had been done to General Dyer from political motive was unfair and gratuitous. He was one of the Cabinet Committee which had investigated the report of the Hunter Committee and he had approached the subject with bias all in favour of the soldier, of firm and even stern repression of sedition and maintenance of Imperial power, but he was forced regretfully to conclude that in the suppression of disorders, acts were committed for maintenance of authority which were ultimately likely not to strengthen but to undermine it. General Dyer's continuing firing, in order to create a moral impression in the Punjab, was a frightful error of judgment involving fearful consequences, but the Government would have committed a more terrible mistake if for fear of unpopularity they had hesitated to condemn General Dyer's action. As regards employment of General Dyer His Lordship declared that it would be unjustifiable and impossible to employ General Dyer when many other British officers of

equal rank and distinction were awaiting employment. The Government were not inflicting any penalty or stigma on General Dyer by not employing him because they could not employ him without extreme injustice to others. The Government took full responsibility for the repudiation of General Dyer's action. No lighter terms of censure would have adequately met the case. The suggestion that any hurt had resulted to General Dyer beyond the inevitable result of censure which the Government felt bound to pronounce was quite contrary to fact: As far as was consitent with their duty in asserting principles they were bound to assist Government and they had dealt with General Dyer considerately and leniently. Far graver consequences to individuals might have to be faced if necessary in order to assert principles which the Government considered vitally important to sound administration and the fair name of the Government of India for capacity of maintaining and order by strong but temperate and not ruthless or cruel methods.

Lord Canterbury regretted the discussion on the ground that it might be construed as approbation of General Dyer's policy.

Lord Sumner supported the motion declaring that General Dyer had been convicted without trial.

Lord Buckmaster opposed the motion.

Lord Meston said that the motion was really a vote of censure on the Government of India. He denied that there was any avoidable delay in bringing the case of General Dyer to investigation. General Dyer's continuing to fire after the crowd had dispersed was unjustifiable. It was untrue that the security of the Punjab depended on General Dyer. It was the steadfast front of the Government of India in the Punjab and elsewhere and the courage of Sir Michael O'Dwyer that had kept the Punjab together. No other officer had acted in a similar way to General Dyer in suppressing disorders. They did what was necessary and no more.

The Amritsar Debate

The Times' Political correspondent writes as follows :—

"When the Secretary for India rose to-day to speak on General Dyer's conduct at Amritsar, the benches were more crowded than they have been for a year, except in some of the Russian debates. Before a word was said, one could feel the air beating with excitement.

"Mr. Montagu is a sincere man and a genuine Liberal, but he does not know the House of Commons. His opening speech was bad advocacy, and one could see his critics growing more and more irritated with each sentence. He acknowledged the services of General Dyer, but said his principles were wrong. When he declared that his intention was to read Indians at large a "moral lesson" that was terrorism. His compulsory salamming and his "all fours" order was racial humiliation. His setting up of the whipping triangles was the policy of frightfulness. These things were inconsistent with our policy in India. If you justified General Dyer it meant that we ruled India by the sword ; and the end of that policy would be that our rule in India would stink in the nostrils alike of our own democracy and of the Indian people, and that the two would combine to close it. You must choose between the policy of force and the policy of partnership. You could not mix the the two, voting for partnership one year and for force the next. As Mr. Montagu developed this argument the House became more and more restive. When he went on to say that there was a theory abroad that an Indian was tolerable only so long as he obeyed orders, interruption swelled into a prolonged roar of anger. He persisted courageously and lowered the horns of his dilemma more menacingly. "Choose, choose," he said. "between race ascendancy and partnership and on your choice will depend the continuance of the British Empire.

"The House was now thoroughly angry. It had not expected the sort of speech. It was bad advocacy in two ways. It was too passionate, and the malcontents were irritated by its sharp logical dilemmas. Secondly the English mind does not work in that way. We are the most daring political generaliser in the world, but it is our way in politics, as in science, to proceed inductively from the particular to the general, and not from the general to the particular.

"The House would have welcomed the principles of Mr. Montagu, which were not merely sound, but noble, if he had led up to them by an accumulation of instance. But between our inductive English method of political argument and this deductive argument from sharply opposed logical propositions, there is an interval of 2,000 years, and 30 deg. of longitude. East and West, be they produced ever so far, will never meet, and Mr. Montagu, patriotic and sincere English Liberal as he is, is also a Jew, and in excitement has the mental idiom of the East. That was the fault of a speech which in logical idea was a singularly pure and brilliant expression of Liberal doctrine.

"A more violent contrast than that between the speech of Mr. Montagu and that of Sir Edward Carson, who followed, it would be impossible to conceive. There was not a general idea in Sir Edward Carson's speech, unless we regard his passion for justice to the individual as a general idea. "We cannot try him, but we have a right to insist that he should have a fair trial." For the rest, his speech was an appeal to prejudice. To break a man without fair trial, was un-English ; you must trust the man on the spot. Even if there had been an error of judgment, ought he alone to bear the consequences ? His strongest point was that the punishment was not immediate, but was delayed. How unfair for armchair politicians in Downing street to pass these judgments on men who had these frightfully difficult practical problems, not of their own making, to solve. You must encourage your agents by your support if they do the onset. Perhaps General Dyer had saved India. The substance of the speech was extraordinarily poor ; the manner was impressive, and the advocacy perfect.

"Mr. Churchill, who followed, was amazingly skilful, and turned the House (or so it seemed) completely round. He began so haltingly as to get the patient ear of the House. He avoided at first expressing an opinion on the merits and entered on an elaborate, not to say dry discourse on the law of master and servant in the Army. He defined the three degrees of dissatisfaction with the conduct of an officer in the Army. General Dyer's retirement on half-pay was the mildest of the three punishments, and you could not say he had been treated unfairly unless you were also prepared to insist on a special trial for the hundreds of officers who had been treated so during and since the war. He met the argument that General Dyer's conduct had been condoned by his superiors by making it clear that but for that he would have been subjected to severer punishment.

"Having thus met the suspicion that there was something especially vindictive in the treatment of General Dyer, Mr. Churchill began to deal with the merits of the case. He admitted the diffi-

culties that confronted an officer in dealing with civil disturbances. Still there were certain elementary tests. Was the crowd with which he had to deal attacking or threatening to attack? Was it armed? At Amritsar the answer to both the questions was in the negative. He then went on to describe the slaughter. We had a picture of the crowd massed in a narrow space, rushing wildly from centre to the corners and back again, as the guns were turned to this direction or that. The feeling of pity grew dominant as the picture became more vivid.

"Mr. Asquith followed with a criticism of Sir Edward Carson's speech. He complained that he had not addressed himself to the merits of the case. To ask the House of Commons to reverse the decision that had been taken was to condone one of the worst outrages in our history.

"After that the debate flagged. Mr. Spoor, for the Labour Party, developed that General Dyer was typical of an Anglo Indian spirit which was not only illiberal and tyrannical, but was under-mining the foundations of our rule.

"Feeling was again very high when Mr. Bonar Law rose to wind up the debate. He laboured to show that he understood all the difficulties of General Dyer's position, but hardly succeeded in soothing the anger of the malcontents. He seemed less successful usually in gauging the moods of the House, and in managing them.

"The Labour amendment to reduce the India Office Vote by £100 was lost by 247 votes to 37 ; and Sir Edward Carson's amendment, also for a reduction of the vote, by 230 votes to 129.

"General Dyer listened to the debate from a seat under the gallery. The following Indian princes were in the Distinguished strangers' Gallery ; The Maharaja of Jhallawar, the Maharaja of Kapurthala, the Tikka Saheb of Kapurthala, the Maharaja of Cooch Behar, the Yuvaraja of Mysore, the Maharaja of Alwar, and the Jam Saheb of Nawanagar.

The Lord's Debate

The Debate in the Lords on Lord Finlay's Motion "to deplore the conduct of the case of Genl. Dyer as unjust and as establishing a precedent dangerous to the preservation of order in the face of rebellion" lasted for two days and was lively in the extreme. It had all the accompaniments of a great occasion. For once the Peers of the realm found means to leave their shady career and congregate to assert a principle on which lay the foundation of their decrepit

existence. More than 200 of their Lordships, most of them as innocent of that pampered chamber as of India, attended and a very "distinguished" gathering of Peeresses and 'fashionable' society-women, reeking capitalists and other friends and admirers of the "Hero of the Punjab" lent an imposing air to the assembly. The Gaekwar of Baroda, the Maharani, and other Indian Princes and noblemen also attended.

Lord Finlay had been well briefed for his job. He stuck to the case of General Dyer throughout, without any concern for the graver issues involved for the people of India or a word of sympathy for the innocent victims of the massacre. He condemned the partisanship which the Indian members of the Hunter Committee had displayed and depicted the disadvantages under which the accused officer laboured.

Lord Sinha, apologetic in his tone and manner, was more placid and restrained. Perhaps the atmosphere of the House was too strong for him and he thought it wiser to leave the more unqualified denunciations to those who could speak with cabinet authority. He went out of his way to condemn the activities of Mr. Gandhi especially in relation to the new movement of Non-Co-operation. It was a calm, well reasoned speech.

The Lord Chancellor mercilessly denunciated the cruel acts of Genl. Dyer. He did this certainly in unqualified language such as one does not often hear from such lofty quarters ; but he also showed that he was not unaware of the deeper issues that were at stake and of the fundamental principles that there were involved. In words that were worthy of the high office which he holds, Lord Birkenhead asserted the right of Indians to equal treatment with other citizens of the empire, and he warned their Lordshipss of the harm they would be doing in India if they passed the resolution.

The case for the Government of India was stated by Lord Meston. His business was to justify the policy of finding a scapegoat for others (himself included). He was the only speaker who thought it necessary to defend the action of the Viceroy.

Lord Curzon declared his distrust of the theory that General Dyer saved the Punjab by his exertions, and he altogether denied that he saved India by his example—Were the principles upon which General Dyer acted approved said his Lordship, we should lower our reputation in India, lower our own standards of justice and huminity, and debase the currency of our national honour. The House heard him throughout with breathless interest, but with scarcely a sign of approval. The motion was adopted by 129 votes to 86—a direct defeat of the Government.

The Naidu-Montagu Controversy

Of the numerous publicity campaigns carried on in England by Indian congressmen, the meetings of Kingeway Hall and of Scarborough are of great significance. In the former Mrs. Sarojini Naidu charged the Martial Law Administration with gross women-outrage. The following correspondence between Mr. Montagu, Sec. of State for India, and Mrs. Naidu explains the matter.

First Letter to Mrs. Naidu.

India Office, Whitehall, S. W. I. 9th July, 1920.

MADAM,

I am directed by the Secretary of State for India to invite your attention to the report of a public meeting at Kingeway Hall on the 3rd June, published by organisers of the meeting. You are reported therein to have said :—"My sisters were stripped naked ; they were flogged ; they were outraged." As you have made no correction, the Secretary of State is bound to assume that you were correctly reported.

Mr. Montagu finds it difficult to believe that anybody could for one moment have thought that such occurrences were possible ; and he finds that these particular allegations do not occur in the Report of the Committee appointed by the Indian National Congress (to which you appeared to refer as the authority for them) or in the Evidence collected by that Committee ; and nothing in that Report or Evidence justifies the allegation that Indian women were stripped naked or flogged or outraged.

Mr. Montagu has satisfied himself that the statements that women were stripped naked, or flogged, or outraged during the operation of Martial Law in the Punjab are of course absolutely untrue. He therfore requests you to withdraw immediately the charges which you are reported to have made publicly, and for which, if correctly reported, you alone appear to be responsible, and to give to your withdrawal the same publicity as was given to the original statements ; or if you are prepared to maintain the accuracy of these specific charges, to produce justification for them. The

Secretary of State reserves the right of publishing this letter, but before doing so, proposes to await your reply, up to Wednesday morning, the 12th July.

I am, Madam,
Your obedient Servant,
(Sd.) S. K. BROWN.

Second Letter to Mrs. Naidu.

India Office, Whitehall, S. W. I 10th July, 1920.

MADAM,

Since the despatch of my letter to you yesterday, the attention of the Secretary of State has been called to statement No 147 printed on p. 194 of the Report of the National Congress Sub-Committee.

Having regard to the general object of the meeting, to the case which you desired to make to your audience, and to the context of your remarks, the Secretary of State does not think that this charge can be the allegation which you had in mind. It is an allegation wholly unconnected with Martial Law procedure, made against Indian Police constables and not against what you described as "Martial Authorities." It is not specifically referred to in the Congress Report.

If, however, this allegation which does appear in the Report of the Evidence published by the Congress Sub-Committee, is the foundation of your statement, he asks you to make it clear that you had no reason to make such a charge against any "Martial Authority," and that you had in your mind only an allegation made against the subordinate police in the course of search for stolen property.

I am to add that paragraph 40 of the Government of India's despatch of 3rd May last in which enquiry is promised into such cases of alleged ill-treatment obviously applies to this case. The Secretary of State has also, however, directed special enquiry into this matter and hopes in due course to be in a position to state to the public the results of the enquiry.

I am, Madam, Your obedient Servant,
(Sd.) S. K. BROWN.

Mrs. Naidu's Reply

Dear Sir,

I am in receipt of the letters of the 9th and 10th insts. sent me by your Secretary at your direction.

I notice that the statements contained in the first letter are considerably modified in the second. While the first categorically denies the existence of any evidence published by the Congress Sub-Committee to justify the remarks made in my Kingeway Hall Speech to which you refer, the second on the contrary admits that there is such evidence, but that the outrages were the work of the police and not of martial Law Authorities.

I am surprised that you should attempt to make such a fine distinction, the materiality of which is not obvious, when the police were an integral part of the Martial Law machinery and admittedly were serving the purposes of Martial Law Authorities inasmuch as these outrages were perpetrated by them to procure evidence for the Martial Law Tribunals.

In any case, if you turn to my speech itself, the report of which is not entirely accurate, you will note that there are only two instances of outrage upon women which I have specifically attributed to Martial Law Authorities. These remarks were based upon several statements made by the women themselves, which read thus :—

STATEMENT 581, PAGE 868,

MADE BY TWENTY THREE WOMEN.

"We were called from our houses wherever we were and collected near the school. We were asked to remove our veils. We were abused and harrassed to give out the name of Bhai Mool Sing as having lectured against the Government. This incident occurred at the end of Baishakh last in the morning in Mr. Bosworth Smith's presence. He spat at us, and spoke many bad things. He beat some of us with sticks. We were made to stand in rows and to hold our ears. He abused us also, saying "Flies, what can you do if I shoot you ?"

PASSAGE FROM STATEMENT 362, PAGE 367.

..... "While the men were at the Bungalow, (where they were detained) he rode to our village, taking back with him all the women who met him on the way carrying food for their men to the Bungalow. Reaching the village, he went round the lanes, and ordered all women to come out of their houses, himself forcing them out with sticks. He made us all stand near the village Daria. The women folded their hands before him. He beat some with his stick and spat at them and used the foulest and most unmentionable language. He hit me twice and spat in my face. He forcibly uncovered the faces of all the women, brushing aside the veils with his own stick.

"He repeatedly called us she-asses, bitches, flies, and swine and said; "You were in the same beds with your husbands

why did you not prevent them from going out to do mischief? Now your skirts will be looked into by the village constables.' He gave me a kick also, and ordered us to undergo the torture of holding our ears by passing our hand round the legs while being bent double.

This treatment was meted out to us in the absence of our men who were away at the Bangalow."

This statement was corroborated by eight other women who made similar statements.

PASSAGE FROM STAEMENT 585, MADE BY MAICABAN, P, 869.

"On the 5th of Baishakh bullets were fired into our village. The village people ran away hither and thither. One European who was on horseback called some old women together and told them that whatever he had done (firing) was done well. The old women did not give any reply. He then abused them and beat them with a stick. He then asked other women to stand in a row. Those who had veiled their faces were forced to remove their veils, they too were beaten with sticks."

From the Statement 125, Page 177.

".....I am a purdahnashin. I never appear in public, not even before the servants. I was however, called down from my house. I went with a pardah (veil). I was peremptorily ordered to take off my pardah. I was frightened and removed the pardah. I was then asked who assaulted Miss Sahib. They threatened me that unless I named the assailant, I would be given over to the soldiers."

Need I remind you that the purdah is as sacred to the Indian woman as is her veil to the Catholic Nun, and forcibly to unveil an Indian woman constitutes in itself a gross outrage?

The other instances of outrage to which I drew attention in my speech, were not specifically attributed to any special individual. My charges, however, were based on statement 147, page 194, which, as you are aware, is of too indecent a nature to be quoted here or from the public platform.

I would further refer you to statements 130 and 131, which deal with the conduct of soldiers and not of the public.

I am deeply grieved to discover that until now you were not cognisant of the statements embodied in the Congress evidence concerning such outrages upon Indian women; and I trust that you are causing an exhaustive and impartial enquiry to be made into such cases.

YOURS FAITHFULLY,
(Sd.) SAROJINI NAIDU.

The Question of Impeachment

And Criminal Proceedings Against

Dyer and O'Dwyer

Early in 1920 the All-India Congress Committee submitted the case raised by the Punjab affairs to eminent Counsel in England for opinion. It was done with a view to ascertain whether and how far it would be possible to fix the offending officials with criminal responsibility. The leading Counsel, Mr. William Henry Upjohn, K. C, to whom the papers were entrusted is well known as a high and leading authority on constitutional Law. Mr. Upjohn says :—

The opinions we have formed can conveniently be stated under the following heads :

First as to the Case Against Sir Michael O'Dwyer.

The case alleged against Sir Michael O'Dwyer is that his administration was tyrannical. It has been laid down broadly, that all misconduct in high places, all oppressive and overbearing acts on the part of those in authority, are forbidden by law (Odgers on the Common Law Vol. I p. 182). It is, however, significant that the instances which are relied upon in support of this proposition are all cases in which there had been some specific offence. Three Lord Chancellors—Michael de la Pole in 1384, Lord Bacon in 1622, and Lord Mansfield in 1722—were convicted of bribery on impeachment. The Earl of Middlesex, Lord High Treasurer of England, was found guilty of refusing to hear petitions until he had been bribed ; and Warren Hastings was charged with rapacious treatment of the Begums of Oudh.

In our opinion, in order to found any proceedings against Sir Michael O'Dwyer it would be necessary to allege and prove *'definite acts of oppression* done or directly authorised by the Lieutenant-Governor himself. The episodes which are said to establish oppression include : (*a*) The Speech in the Legislative Council in September 1917 which constituted an attack upon the educated classes ; (*b*) the prohibition during his administration of certain political leaders entering the Punjab ; and (*c*) the rigorous enforcement of the Press Act in the Punjab. We opine that while these matters may indicate a want of statesmanship, they do not amount to the crime of oppression.

Matters requiring very careful consideration are Sir Michael O'Dwyer's conduct in connection with the establishment and continuance of Martial Law in the Punjab. Here there is considerable difference of opinion between the members of the Hunter Committee. The views of the majority will be found in paragraphs 17 to 34 at pp. 72—75; and of the minority at pp. 103-110. It is unnecessary for us to express our own opinion as between these conflicting views. Accepting the views of the minority members, we do not consider that any criminal charge in respect of such matters could be established against Sir Michael O'Dwyer.

Another matter for consideration is Sir Michael O'Dwyer's conduct in connection with the administration of Martial Law during its continuance. The evidence shows that, in many cases, such administration was carried out in a tyrannous and oppressive manner, which is now admitted by the Government of India to have been without justification. But there is no evidence before us which justifies a charge that Sir Michael O'Dwyer was directly a party to, or authorised, the acts in question so as to be criminally responsible therefor. Take, for instance, the case of the use of aeroplanes at Gujranwala. It does appear that Sir Michael O'Dwyer directly concurred in the proposal to use aeroplanes; but this fact would not render him liable for the bombing of a school, and other unlawful acts done from aeroplanes which were despatched; and, under the circumstances existing as to the destruction of communications we do not think that the mere use of aeroplanes can be complained of as without justification.

After the best consideration we can give to the matter we are of opinion that there is no ground for any proceedings against Sir Michael O'Dwyer.

Next as to the Case Against Brigadier General Dyer.

The two episodes concerning General Dyer which are, in our view, of outstanding importance are the Jallianwala Bagh Shooting and the Crawling Order. There are other acts of this officer, which are open to grave animadversion:—his impressment of the pleaders as special constables (a measure apparently intended rather to humiliate the lawyers than to preserve order) is an example; but it appears to us preferable to concentrate upon these two outstanding episodes, and to pass by events of relatively minor importance; though we quite appreciate the real injury and wrong done to the sufferers on those occasions.

(a) As to the Jallianwala Bagh Shooting.

There is no dispute about the facts of this lamentable occurrence. General Dyer has made four statements: (*a*) A report not dated, but

apparently written on the 14th April 1919 (printed at p. 216 of Vol. III of the Hunter Committee Evidence); (*b*) a report dated 25th August 1919 (printed at pp. 201, 205 of the same Volume); (*c*) oral statements before the Hunter Committee (pp. 144-139 of the same Volume); and (*d*) his statement to the War Office, dated 3rd July 1920, recently printed as a parliamentary paper. For the purposes of this opinion we need scarcely travel outside the admissions made in these several statements.

It is not necessrry here to travel through all the facts. The important (and undisputed) facts may be summarised as follows:

(1) There had been no acts of lawlessness or violence in Amritsar on 11th and 12th April.

(2) The crowd on the 13th April was unarmed, except so far as some persons may have been provided with *lathis*.

(3) When Dyer and his men came upon the scene, the crowd was not engaged in any act of violence, but was listening to some speech. Many, perhaps most, were squatting upon the ground.

(4) No act of hostility was committed by the crowd towards Dyer or any Military command.

(5) No order was given to the crowd to disperse, nor any warning that the Military were about to fire.

(6) When the firing started, the crowd, panic-striken, commenced to disperse. Still no act of hostility was attempted towards Dyer or his force.

(7) The firing was continued, although the crowd was dispersing, so long as the ammunition lasted, save the small quantity retained in accordance with custom.

Under these circumstances, nearly 400 lives were lost, and an unascertained number of persons wounded.

Dyer Guilty of wilful Murder.

The occurrence can only be designated as a massacre. Brigadier-General Dyer was present and the firing took place by his direct personal command. Unless there is some legal excuse or justification, there can be no question that Brigadier-General Dyer was guilty, not merely of oppression, but of the crime of wilful murder.

Then the question arises, has General Dyer alleged, or do his statements disclose any ground of legal excuse or justification.

At pp. 12 and 13 of his deliberate and carefully framed statement of 3rd July 1920, Brigadier-General Dyer has presented seven propositions lettered (a) to (g) as containing a fair summary of the motives and grounds of his action. The propositions lettered (b) and (e) are made for the first time. They are not only not supported by any evidence but they are contradicted by all the relevant facts;

they are obviously mere afterthoughts. Upon the evidence before us, we have no hesitation in characterising them as mere inventions and plain untruths. The reference to the unarmed crowd as 'the rebel army in front of me' is more than an exaggeration. It is absurd, and it is untrue.

The propositions lettered (d) to (g) are based upon the proposition (b) and (c), and fall with them. The reference to the unarmed crowd, squatting and listening to some speech, which commenced to disperse as soon as the firing started, as 'the large determined and defiant assembly before me' is again a most untrue and misleading statement.

This leaves only the proposition lettered (a) referred to as 'the general situation' and 'its attendant military dangers.'

The Brigadier's earlier statements, which are less artificial, and bear a stronger impress of truth, show that the proposition (a) contains, and alone contains his real motive and ground of action.

The central fact to be extracted from all the Brigadier's statements is that he was of opinion that there existed a revolutionary outbreak, and that now was his opportunity. His own words in his statement of 25th August, 1919, (p. 103 of Vol. 5 of evidence before the Hunter Committee at foot of first column), are :

'I fired and continued to fire until the crowd dispersed, and I consider this is the least amount of firing which would produce the necessary moral and widespread effect it was my duty to produce, if I was to justify my action. If more troops had been at hand, the casualties would have been greater in proportion. It was no longer a question of merely dispersing the crowd but of one of producing a sufficient moral effect, from a military point of view, not only on those who were present but more specially throughout the Punjab. There could be no question of undue severity."

In his statement to the Hunter Committee he said (Vol. 3 p. 123 col. 1) that, when thinking over his line of conduct while on his way to and before he had reached the Bagh, 'I had made up my mind that I would "do all men to death" if they were going to continue the meeting' and admits that, in pursuance of this scheme, he from time to time directed his firing to the places where the crowds struggling to escape were thickest (p. 123, col. 1) and on p. 126, column 2, "I was going to give them a lesson.'

'I was going to punish them!' 'My idea was to make a wide impression throughout the Punjab' 'I wanted to reduce the moral of the rebels.'

Having very carefully considered the whole of the evidence, both that before the Hunter Committee, and that collected by the Congress Committee, we think there can be no doubt as to the

correctness of the conclusion come to, both by the majority members (pp. 63, 68) and the minority (p. 93) that there is no proof of any organized rebellion or conspiracy to overthrow the British Government. That there was much unrest, brought to a head by recent legislation, and by proceedings against certain popular leaders, is undoubted (see Majority Report, pp. 57-63 ; and Minority Report pp. 19-97). The rioting serious, reprehensible, and (in its effect) terrible, as it was, was local and sporadic.

Alleged 'Rebellion' no justification for Massacre of unarmed Crowds.

But we do not propose to deal with or discuss the evidence bearing upon this question, for, if Brigadier General Dyer's view had been correct, if there had been, on the 13th of April 1919, an organized rebellion within the Punjab, that fact would not have justified Dyer's conduct or the massacre he perpetrated. The crowd on whom he fired was, by his own admission, unarmed, and not engaged in any act of violence ; nor did it, upon the appearance of Dyer and his force, undertake any act of hostility against him or them. The only Common Law justification or excuse for the use of force is to meet and repress illegal force resorted to for the purpose of crime. A rebel in arms stands in the position of a public enemy, who may be killed in battle, as a foreign enemy may be killed. As Lord Coke said in the House of Commons debate on the Petition of Rights : 'a rebel may be slain in the rebellion.' The admitted facts as to the conduct of this unarmed crowd show how utterly Dyer's conduct was without justification by the Common Law doctrine.

In our opinion, the alleged justification based upon the existence of an organized rebellion entirly falls ; both upon the facts (for there is no evidence of such an organised rebellion) and upon the law, for if such a rebellion had existed, it would not have justified Dyer in firing upon an unarmed crowd not engaged in any hostile act.

But apart from the Common Law Doctrine, the Provisions of a Statute, chapter IX of the Criminal Procedure Code of India [Act V of 1898], have to be considered. This chapter deals with 'unlawful assemblies,' and empowers the authority mentioned to cause such an assembly to be dispersed by Military force, provided certain statutory conditions exist, although there may be no rebellion in existence.

The statutory conditions referred to may be summarized as follows :—(1) there must be unlawful assembly, or assembly likely to cause a disturbance of the public peace ; (2) it must be called upon to disperse ; (3) it must refuse to disperse ; (4) the circumstances must be such that the assembly can not be dispersed without the use of military force ; (5) public security must be manifestly

endangered by the assembly and it must be necessary for the public security that it should be dispersed.

Whether Brigadier General Dyer purported to act, or thought he was acting under this statute, is, we think, extremely doubtful. In our view, he was not purporting so to act. But assume that he did purport so to act: and assume further that condition (1) was satisfied; it is perfectly plain that conditions (2) (3) (4), did not exist. It is therefore unnecessary to consider whether condition (5) existed.

No justification therefore can be established under the statute.

In passing, we may refer to the Army Regulations, India. Para 572 sets out the provisions of chapter IX of the Code of Criminal Procedure; and para 573 of which the marginal note is 'firing on an unlawful assembly,' contains the following:—'the O.C. the troops..... will, before taking action, adopt the most effectual measures possible to explain to the people that the fire of the troops will be effective; the firing must be stopped the moment it becomes unnecessary.'

When Dyer's oral statements before the Hunter Committee (some of which are above set out) are compared with the provisions of this Regulation, it will be seen at once how excessive and without justification his conduct was, even if he purported to be acting under the statute.

In the result we have no doubt that Brigadier-General Dyer was guilty of wilful murder of the subjects of his Majesty the King-Emperor who were shot and killed by his order to the number of nearly 400, on 13th April 1919, at Amritsar.

Further, we have no doubt that, in ordering his force to fire upon the unarmed crowd in the circumstances above mentioned Brigadier-General Dyer was guilty of most cruel and tyrannous oppression, of gross and wanton inhumanity, constituting a misdemeanour under the Government of India Act 1919 (see section 124A.) The next question is what proceedings should be taken to bring this officer to justice for the crimes of which he has been guilty.

We do not deal here with any proceedings which it may be competent to take in India, but confine ourselves to the question of preceedings in England.

We pass by the Governor's Act 42 Geo 3 C. 85 though its terms are wide enough to offences committed in India. It appears that India has been the subject of specific enactments; formerly 13 Geo. Ch. 63 section 69, and 27 Geo. 3 sec. 2 C 25; and now the Government of India Act, 1915 sec. 127.

In our opinion, criminal proceedings may be taken against Brigadier-General Dyer in the High Court of Justice in England under sec. 127 of the Act of 1915 both in respect of the oppression

done and misdemeanour committed by him. Whether the proceedings should be based on both the matters mentioned, or on one only, and which, is a matter which should receive very careful consideration. Our own view at present, based on a consideration of the procedure and evidence at the trial, is that there would be practical advantage in confining the charge to one of misdemeanour based on the oppression alone.

In our opinion, if an indictment either for murder or for oppression got to a jury, they would not only be justified in finding but ought to find a verdict of 'guilty'. Whether a jury would so find, it is of course impossible for us to prophesy. The defence would, no doubt, endeavour (and probably with more or less success) to introduce a number of topics based on racial and political prejudices, which might lead the jury astray. Nor do we forget that in both the cases arising out of the Jamaica riots (R. v. Nelson, in which the Grand Jury were charged by L. C. J. Cockburn, and R. v. Eyre in which the charge was by Mr. Justice Blackburn) the bills preferred were ignored. We cannot say more than that, in our opinion, if no technical defences are established, there will be a strong case upon the facts to go to the jury, upon which they ought to find a verdict of guilty.

From the above qualification of the expression of our opinion it will be seen that we anticipate the raising of technical defences, with a view to preventing the charge from going to the jury on the merit. We will deal with these in the following way :—

(1) By sect 132 of the Criminal Procedure Code (Act V of 1898) it is enacted that no prosecution against any person for any act purporting to be done under chapter 9 of that Act shall be instituted in any criminal court, except with the sanction of the Governor-General in Council.

It may be that the Governor General in Council would give the necessary sanction. If so, no difficulty would be caused by the above enactment. But, if sanction be refused, what will be the effect upon the prosecution ?

The question would be, whether the prosecution was for an act purporting to be done under section 131. That would raise a question of fact. Section 131 assumes that civil power is still in existence and in control, that military power is subordinate and assistant ; and that the only reason why a Civil Magistrate is not acting on the particular occasion is that it is not at the moment practicable to communicate with one.

Brigadier General Dyer's evidence shows that this was not at all the state of things, and was known by him not to be the state of things in Amritsar on 13th April, at the time of the firing. On p. 114

of Vol. 3 of the evidence before the Hunter Committee (2nd col.) he states plainly that the position was that civil law was at an end, that military had taken its place for the time and that he was under no necessity of consulting the civil authority. On page 122 (col. 1) he says the position was that he was not dealing with an unlawful assembly that could have been stopped with military assistance, but with an open rebellion ; that he was in control, that the civil athorities were assisting him and not he the civil authorities. Similar statements will be found on p. 125 column 1 and p. 136 col. 2.

It seems clear upon these admissions that this officer was not purporting to act under chap. 9 of the Code at all : so that no question of obtaining the sanction of the Governor-General will arise.

It is, therefore, unnecessary to deal with two further points which might be urged viz. (a) that the sanction is a mere matter of procedure, part of the 'lex fori,' and therefore not required for an English proceeding ; (b) that the Indian legislature cannot impose a condition upon proceedings in England for the punishment of an act which is a crime according to English law.

(2) By section 132 of the same Code, it is also enacted that (b) no officer acting under section 131 in good faith shall be deemed to have committed an offence.

For the reasons above mentioned, Brigadier General Dyer was not acting under section 131 at all ; therefore he can derive no protection from this enactment.

Further we are of opinion that Brigadier General Dyer acted 'without due care and attention,' and therefore not in good faith ; see Criminal Procedure Code, section 4 (sub-section 2) incorporating the definition clauses of the Indian Penal Code (Act XLV of 1860), whereof section 52 defines the meaning of the expression 'done in good faith.'

The result as to (1) and (2) is that in our opinion, the provisions of section 132 of the Criminal Procedure Code of India will not avail Brigadier General Dyer to prevent the charges against him from being submitted to the jury.

(3) Next, we propose to deal with the Indian Indemnity Act No. XXVII of 1919.

The existence of the Act gives rise to a very important question, on which there has been no judicial decision, but an intimation of judicial doubt, viz., whether when an act has been done which, according to an act of Imperial Legislature, is triable as a crime in England, the legislature of the dependency where the act was done (e.g., as here the Governor General in Council) can undo the effect of that act as a crime, and so prevent it being tried in England. In the

civil action of Philips v. Eyre (L. R., 4 Q B 225, and 6 Q B 1), it was held that an Act of Indemnity of the Colonial legislature of Jamaica was a good defence to a civil action in England, but its effect in a criminal proceeding in England was expressly kept open (see L. R. 6. Q. B. 21), and in his charge to the Grand Jury in R. v. Eyre, Blackburn J. stated he would not express any opinion on the point, on which he had a grave and serious doubt.

The point may be excluded by an Order in Council made under sect. 7 sub sec. 2 of the (Imperial) Indemnity Act. 1920, which may validate the Indemnity Act. But in the absence of such an Order in Council, our own view not expressed without doubt, is that the Indian Indemnity Act though it would avail Brigadier General Dyer in a prosecution in India, will not avail him in a prosecution in the High Court of Justice in England. Oppression by a person employed by the Crown in a British dependency is a crime in England both at Common Law and by Imperial statute and is by Imperial statute made justifiable in England. In our opinion such English law can not be over-ridden or its effect undone, by the act of a dependent legislature.

But it seems proper, in case a different view should prevail, to express our opinion as to the effect of this act, should it be held applicable.

Referring to the provisions of section 2, we think (a) that Amritsar was, on the 13th April, a place where martial law was enforced within the meaning of the section, i.e., de facto : although martial law had not, on that date, been established there under the provision of Bengal Reg. X of 1804 ; (b) that it would be held that the firing question was an act purporting to have been done for the purpose of maintaining or restoring order in some part of British India (c) we do not think it would be disproved (see sect. 3.) that Brigadier General Dyer acted 'in good faith,' i.e., honesty, and 'in the belief that his action was necessary for maintaining or restoring order in some part of British India.' The definition of good faith applicable to this Act is that in sub-section 20 of section 3 of the General Clauses Act (No. X of 1897), which makes the test of 'good faith' that the act was in fact done 'honestly', whether done 'negligently or not.'

The question would therefore come to be (d) whether Dyer's belief, which we assume, that action was necessary for maintaining or restoring order in some part of British India where martial law was enforced, was a 'reasonable belief.' Under section 3 'reasonable belief' is to be assumed, unless the contrary is proved.

'reasonable' is a question of fact. But we take the view that the order mentioned in section 2 is not necessarily confined to dis-

persing the crowd collected in Jallianwala Bagh on 13th April and it may not even be confined to Amritsar; it may extend to the whole of the Punjab, in which martial law was enforced it may even not be confined to the Punjab. And, obviously the wider the area which Dyer war entitled to consider, the greater the difficulty in disproving the reasonableness of belief as to the proper mode of maintaining or restoring order in such area. We doubt the prosecution being able to persuade a jury that Dyer's assumed belief that what he did was necessary for maintaining or restoring order in British India was not a reasonable belief.

The result as to [3] is that in our opinion, in the absence of an Order in Council under section 7 of the Act of 1920, the Indian Indemnity Act will be held not applicable to the case of a prosecution in England, and will not avail Brigadier-General Dyer to prevent the charges against him from being submitted to the jury. But if the contrary view should prevail, or if an order in Council should be made, and Dyer should be held entitled to the benefit of this act by way of answer to a prosecution in England, then, the probable result will be that the Act will be fatal to the prosecution, and prevent the case from being laid before the jury upon the merits.

(4) Lastly, it is necessary to consider the English Act of Indenity, 1920 [10 and 11 Geo. 5 C 48]. The relevant provisions are in the early part preceding the proviso of subsection I of sect I.

To entitle Brigadier-General Dyer to the benefit of this Indemnity Act, the following facts must appear.

[a] that his act was done in good faith, that is honestly. Under sub-section 3 of sect 1, this is assumed unless the contrary is proved. We do not think the prosecution will be able to prove the contrary.

[b] that the act purported to be done by him [i] in the execution of his duty, or [ii] for the defence of the Realm or the public safety: or [iii] otherwise in the public interest. The expression 'purported to be done' refers to the intention, scheme, or design of the doer; and if Brigadier-General Dyer proves that, in doing what he did, he intended to act, and honestly believed that he was acting, as mentioned in [i] or [ii] or [iii] he willbring himself within the Indemnity given by the Act.

The opinion we have formed upon reading Dyer's evidence and written statements is that wrong as he was he was honest and did honestly intend to act, and honestly believed that he was acting as mentioned above. It is however enough to say that we think upon the material before us, there is no real chance of persuading a jury to the contrary.

The result as to [4] is that in our opinion, the English Indemnity

Act of 1920 would be fatal to a prosecution and prevent the merits of the case from being laid before the jury.

It does not occur to us that we can usefully add anything further as to the question arising out of the Jallianwala Bagh shooting.

The Crawling Order

The other part of the case against Brigadier-General Dyer rests upon the Crawling order.

There is no dispute as to the facts. Dyer's statements as to the matter will be found [a] in his statement on 25th August 1919, at p. 205 of Vol 3 of the evidence taken by the Hunter Committee; [b] in his oral statement before the Hunter Committee at pp. 120, 121, 123, 124, 127, 130, 139, of the same Vol and [c] at pp. 17, 18 of his statement to the War Office dated 3rd July 1920.

The views of the majority of the Hunter Committee as to this episode will be found at p. 83 of the Report; and of the minority at pp. 121, 125. The views of the Secretary of State are stated at the top of p. 25 of the Correspondence.

It is not necessary to recapitulate all the facts. Those most material to be borne in mind are:

[1] That the order was issued on 19th April [though it is admitted that all had been quiet in Amritsar since 13th], and was continued until 26th April.

[2] During this period it was enforced by picquets of soldiers stationed at each end of the street from 6 a. m., to 8 p. m.

[3] The street in question appears to be about 150 yards long, and has houses on both sides of varying heights; and is thickly populated.

[4] In most, and probably in the large majority of cases, there is no access to any house except by the street in question..

[5] On 26th April the order was withdrawn on the instructions of the Punjab Government, who disapproved of it.

There is no proof, indeed there is hardly a suggestion, that the inhabitants of the houses in the streets whose ordinary occasions involved a passage along the street, had participated in the attack on Miss Sherwood or indeed in any other of the illegal outbreaks on the 10th April. So far as any intelligible explanation of this outrageous proceeding can be obtained from Dyer's several statements, it would appear that Dyer's view was 'Amritsar had behaved very badly; and I think most of the inhabitants of Amritsar either gave assistance,' or were only waiting to see what was 'going to happen 'apparently.' 'I do not think it a very great inconvenience for them' [i. e., the dwellers in the street] 'if they had to suffer a

little for all that Amritsar had done. I thought it would do no harm under martial law.' Truly a strange mental condition of the officer entrusted with the administration of martial law over a wide and populous district. The majority of the Hunter Committee criticize the order on the ground that it 'unnecessarily punished the innocent as well as the guilty.' The condemnation of the Secretary of State [p. 25 of correspondence] is more in consonance with the facts, and more adequate in expression ; inflicted, as it was, upon persons who had no connection with that crime, with the object of impressing upon the public of Amritsar through the humiliation of those persons, the enormity of the crime committed by certain individuals of that public, the order offended against every canon of civilized Government. And see the observation in para 6 of the same despatch hereafter quoted. In truth, the order was not directed against the guilty at all ; but against those against whom no charge of any kind was made.

An Unjust and Tyrannical Exercise of Power.

In our opinion, the order made and enforced under Brigadier-General Dyer's directions was an unjust and tyrannical exercise of power over those who were subjected to his authority, which amounted to an "oppression" of such subjects within the meaning of the Government of India Act 1915 S. 124 sub sec 1, so as to constitute a misdemeanour under that Act. In respect of that misdemeanour, Dyer may be indicted before the High Court of Justice in England, under sec. 127 of that Act. If, after due consideration of what we have said as to the charge in respect of the Jallianwalla Bagh shooting, an indictment is preferred in respect of that charge, the indictment should contain a separate count in respect of the Crawling Order and the enforcement thereof. If, on the other hand, no indictment is preferred in respect of the shooting, it will then be necessary to consider whether the prosecutors will prefer an indictment in respect of the Crawling Order alone.

It remains to consider the effect of the Indemnity Acts already referred to, upon an indictment in respect of the Crawling Order.

As to [1] the Indian Indemnity Act, we have above advised that it will not avail Dyer in a prosecution in the High Court of Justice in England. Even if that view should not be adopted, we are of opinion that this Act would not apply to the case, on the grounds [i] that the Crawling Order and enforcement thereof was not ordered or done, or purported to be ordered or done, for the purpose of maintaining or restoring order, [ii] that Dyer did not act in the belief that his action was necessary for the said purpose, [iii] such belief, if it existed, would not have been reasonable.

As to [2] the English Indemnity Act, we are of opinion that it will not void the prosecution, on the ground that the Crawling Order and the enforcement thereof was not done, or purported to be done, for any of the purposes mentioned in sub-section I of the Act.

As to both Indemnity Acts, we are further of opinion that it ought to be held that Dyer did not act 'in good faith' within the meaning of either; but acted in a merely wanton, cruel, capriceous, and tyrannous manner, and without regard to any public interest to be served, or public advantage to be obtained.

The result, in our opinion, is that, if Brigadier-General Dyer be indicated for an offence, in respect of the Crawling Order and enforcement thereof, there would be a case to go to the jury; the Indemnity Acts would not apply; the prosecutor would be entitled to have the cases submitted to the jury; and in our opinion, the jury ought to find a verdict of guilty. But how a jury would deal with the case we cannot, of course, predict.

What should be done.

If a prosecution should be instituted in respect of the Crawling Order and the enforcement thereof, very full and complete evidence must be laid before the jury as to the enforcement of the Order, and the effect thereof upon the residents in the street, and those having occasion to use the street. We mean the effect, physically, materially, morally, and mentally. Without such evidence, the true operation of the order as an act of oppression and a statutory offence cannot be rightly appreciated. Not a great deal of evidence of this class was given before the Hunter Committee. A good deal was given before the All India Congress Commission. It would seem premature at present, to advise upon the details of the evidence to be adduced; but, if it is decided to prosecute in respect of the Crawling Order and its enforcement, evidence should continue to be collected upon the lines of that given before the All India Congress Commission, showing [1] the humiliating character of the act and its effect upon the native mind; [2] the absurdity of Dyer's suggestion that he wanted to attach a 'special sanctity' to the crowded street of dwellings and have it regarded as holy [3] the inability of the residents to get food, water, medical attendance, and other necessaries; [4] the insanitary results from absence of street sweepers, accumulation of insanitary refuge, impossibility of cleaning latrines, etc., [5] all other matters bearing upon the effect of the Orders as enforced.

Messrs Kitchen and Miles Irving

Next—As to Mr. Kitchen, the Commissioner, and Mr. Miles Irving, the deputy Commissioner, we find no grounds for advising that any offence has been committed by them or either of them.

The real criticism of their conduct seems to be that they did not rise to the occasion but too readily abdicated their civil function and made room for the military.

Conclusion

Lastly.—We will deal with a number of cases which may conveniently be considered together under the heading of "Orders made and acts done under the assumed authority of martial law."

We have most carefully perused and considered the evidence bearing upon this matter and have especially considered the cases of [a] the Crawling Order of Brigadier-General Dyer at Amritsar, dealt with above [b] General Campbell's salaming order issued at Gujranwala; [c] the order of Lieutenant-Colonel Jhonson at Lahore particularly those dealing with the students; [d] Lieutenant-Colonel O' Brien's orders for reprisal against the persons and property of innocent relatives of accused persons; [e] the order of Major B. Smith as to parades by school boys and infants of tender years in Gujranwala and other districts; [f] the flogging by Lieutenant-Colonel Mecrae of school boys at Kasur; (g) Bosworth Smith's treatment of Indian women at Manlanwala; (h) fancy punishments invented and inflicted by Captain Doveton and others.

In none of these cases, and the same observation applies to many others, had the orders made or punishments inflicted any real relation to the purpose of maintaining or restoring order. No attempt was made to discriminate between the innocent and the guilty; and it is apparent that, in the great majority of cases, the punishments fell on innocent persons, and sometimes to the exclusion of the guilty. Indeed, in some cases, the punishments were expressly inflicted on the innocent, because the guilty were out of reach. In many cases the punishments inflicted were insulting and humiliating to an extreme degree.

The justice of this view is admitted by the Government of India in its despatch dated 3rd May, 1920 para 41 at p. 20 of the correspondence, where the statement occurs. We accept the view that the administration of martial law in the Punjab was marked in particular instances by a misuse of power, by irregularities and by injudicious and irresponsible acts.

His Majesty's Government also in the Secretary of State's reply to this despatch 'express strong disapproval of these orders and punishments' [para 6 at p. 20 of the correspondence] and the instances cited by the Committee give justifiable ground for the assertion that the administration of martial law in the Punjab was marked by a spirit which promoted not general but unfortunately not uncommonly the enforcement of punishments and orders calcu-

culated, if not intended, to humiliate Indians as a race, to cause unwarranted inconveniences amounting on occasion to injustice, and to flout standards of propriety and humanity which the inhabitants, not only of India in particular, but of the civilized world in general, have a right to demand of those set 'in authority over them.'

We have no doubt, that in many, perhaps all, of the cases above mentioned, the conduct of the officer was so unjust, so cruel, so tyrannous and so wanting in humanity as to amount to 'oppression' within the meaning of the Statute of 1915, and to be a misdemeanour punishable criminally in England as well as in India.

Nor, in our opinion, will either Indemnity Act assist the offender.

But then, except as to Dyer's Crawling Order already fully discussed, the question arises, whether it is worth while to endeavour to bring the persons named, or any one of them, to trial in England. The costs would be enormous; the risk of a miscarriage of justice not inconsiderable. This is a matter rather for the decision of the National Congress than for the opinion of Counsel. But it may assist deliberation, if we express our opinion that, upon the whole, it would be better to endeavour to being retribution for their inhuman conduct upon these men, by pressing upon the Government of India the duty of inflicting punishment upon them in accordance with the directions in paragraph 6 of the despatch of the Secretary of State, dated 26th May 1920.

Sd. W. H. UPJOHN,
Sd. GRAND S. SANDERS,
Sd. B. DUBE,

8th September, 1920.