

**The Honourable the President:** I announce for the information of the Members of this Assembly that the procedure laid down for the election of the Public Accounts Committee will also be adopted in the case of the election of the Standing Finance Committee whose appointment has just been approved by the Assembly. That is to say, the Notice Office will be open for the receipt of nominations in due form on any working day up till next Friday at noon, and thereafter at 11 A.M. on Saturday, the 26th, the election of Members to serve on this Committee will be held in this Chamber.

## RESOLUTION *RE* PRESS AND REGISTRATION OF BOOKS ACT AND THE INDIAN PRESS ACT.

**Mr. S. P. O'Donnell:** Sir, I rise to move the following Resolution :

'This Assembly recommends to the Governor General in Council that a Committee of officials and non-officials be appointed to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and report what modifications are required in the existing law.'

Sir, important problems connected with the Press Act have been engaging the attention of the Honourable Home Member, and I shall, therefore, avoid referring to matters which will be touched on by him later. I shall not accordingly attempt to review the reasons which led to the passing of the Press Act, nor the manner in which it has been enforced. I shall confine myself to indicating briefly the main reason which has led Government to bring forward this proposal.

As Honourable Members are aware, the principle of the responsibility of the Executive Government to the Legislature has not been extended to the Central Government. Though it has received statutory recognition in the sphere of the Provinces, it has not been extended to the Government of India. The responsibility of the Government of India is still to the Secretary of State and the Parliament. Nevertheless, the Act of 1910 has brought into existence the Indian Legislature in which there is a large non-official majority, and it follows as an inevitable corollary of that change that the policy of the Government should be very largely influenced and guided by non-official Indian opinion as expressed through the Legislature. Now, undoubtedly, there is a fairly general feeling amongst non-official Indians against the retention by the Executive of the very wide powers which the Press Act confers. How far that feeling is justified is a matter into which it is quite unnecessary to enter. The fact remains that a very large body of Indian non-official opinion does consider that the Press Act imposes undesirable restrictions on the liberty of speech, and that, even if the enactment and enforcement of the Press Act may have been justifiable in the past, its retention, at any rate in its present form, is inconsistent with the spirit of the new era that we are now entering. The Government recognise the existence of that feeling. They are anxious, in everything that is possible, to meet the legitimate demands of Indian opinion, and, accordingly, they have come to the conclusion that the occasion is opportune for the examination of these measures by a competent Committee whose conclusions may be expected to carry weight with the Assembly.

**The Honourable the President:** The question is that the following Resolution be accepted :

'This Assembly recommends to the Governor General in Council that a Committee of officials and non-officials be appointed to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and report what modifications are required in the existing law.'

**The Honourable Sir William Vincent:** Sir, I make no apology for intervening in this debate at the earliest possible moment. The subject is one of very great importance and it is one with which I have been so intimately connected for the last few years, that I should be failing in my duty to this Assembly if I did not attempt an explanation of the policy and of the attitude of the Government of India on this matter. I shall have, however, to curtail my remarks to the lowest possible limit because of the time limit which the rules place upon me. Indeed I am, at this present moment, a little unsure about my position on this point, but I will endeavour to detain this Assembly for as short a time as possible. I must, however, deal briefly with the antecedent legislation, because, unless some examination of this is made, it is impossible, I think to understand the policy of Government.

The position is this, that prior to 1835, all printing of books and papers was subject to licence by the Governor General in Council, and these licences were issued or refused entirely at the discretion of Government. In that year an Act was passed, Act XI of 1835, which repealed the old Regulations and merely required registration of the printer. There were one or two minor requirements in addition. That Act was replaced in 1867 by the present Press and Registration of Books Act and, save for an Act which was in force for one year during the year of the Mutiny in 1857, I think, that there was no further legislation directly affecting the Press until 1878, when, as many Members are aware, the Vernacular Press Act was passed. This was repealed by Lord Ripon's Government in 1881 or 1882, I have forgotten which. From that date till 1907, the Government made no attempt to interfere with the liberty of the Press; there was, at any rate, no direct interference. In the later part of this period, however, a good deal of sedition was disseminated through the Press and on the platform, but the Government attempted other means of suppressing it. I need not refer in detail to the various measures. The most important probably was the passing in 1898 of section 124A of the Penal Code in its present form—it had originally been enacted in 1870; in the same year, 1898, section 153A of the Penal Code and section 108 of the Criminal Procedure Code were introduced into these laws. There were a certain number of prosecutions under these sections up to 1907 and, I believe, they were generally successful, but nevertheless the dissemination of sedition through the Press continued unchecked. I ought to say, however, that this was strictly confined to certain organs of the Press and I do not wish in any way here to be construed as making a general attack on the Press, because the conduct of the majority of the papers was proper and indeed, in most cases, unimpeachable. But there were a certain number of papers that did advocate and disseminate the most violent sedition. I have made a collection of some of the proposals that used commonly to be advocated and statements that were made. It was said, Government violated the law, that it broke its promises, and in the more violent papers the weakness of the English was remarked upon and their inability to maintain their present position in the world. It was said, that there would be no difficulty in driving out the usurper, if all men jointly made an effort to do so; that the time was

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nigh when this foul race would have nothing left to do but to abandon India to the victorious Russians; that the Nana Sahib was about to invade India with a Russian Army, and the English in India were compared to a deer holding in its power a lion and a tiger. The doctrine against the violent usurper was bitterly and sedulously preached and the use of force openly advocated.

In view of this the Government undertook a more vigorous campaign against these papers and prosecuted much more freely, and it was about the same time that the Government passed the Newspaper (Incitement to Offences) Act in 1908. I have here again some statements taken out of the letter of the Bengal Government in which they discussed the necessity for this legislation. I will cite only one ..... 'the demand of a hundred heads for one head to avenge the murder of the Motherland.' I think also some Honourable Members will remember that when one of the criminals in the bomb case at Muzzuffarpur was prosecuted, he admitted that he had been incited to this course by the encouragement that he had received from particular newspapers. It was in these circumstances that the Incitement to Offences Act was passed. At that time we, or rather the Government of Bengal, had prosecuted a number of people. I was in Bengal at the time though I had nothing to do with the prosecutions. What was the result? As soon as an editor was prosecuted—the editor of a paper like the *Yugantar*, as some gentlemen here may remember, or the *Sandhya*—the proceedings were protracted for an indefinite time, the paper sold like hot cakes while the case was pending—on some occasions many thousand copies being sold at a rupee a copy—the editor became a martyr and, finally, when he was convicted, he usually got some short sentence, an appeal being made for mercy on account of his youth. On one occasion, no less than five editors were put up, one after another, and convicted for disseminating sedition throughout the whole of Bengal. They were convicted and fresh dummy editors took their places. It was in those circumstances that the Government thought it was necessary to take measures to prevent this dissemination of sedition. Nevertheless the evil continued. More subtle methods were adopted of disseminating sedition and the Bengal Government again, I think, approached the Government of India on the necessity of a Press Law. I hope I am doing the Bengal Government no injustice in saying, they advocated this. At any rate, there are many letters from that Government where they suggested this action and in which they supported this course, the reasons being, as I said, that the trials under the law were protracted for an enormous time, that the sales of the papers were increased by any cases against the editors, that the prosecutions gave the papers which we sought to punish an advertisement, and that really by the prosecutions the Government were assisting in disseminating the very poison that they sought to get rid of. Ultimately, after prolonged deliberation, the Press Act X was passed, and I need not enter now into the discussion of the debates on that Bill. They have been discussed on public platforms and in the press almost *ad nauseam*. Nor need I enter into any discussion of the merits and demerits of the Act. We believe, of course, that it has been administered with a reasonable tolerance and forbearance, and that on the whole it has had a very beneficial effect. At the same time, we are quite aware, that it has evoked severe public criticism. It is felt by some that particularly in the hands of overzealous officers the Act may be used unfairly, that is, officers may be so anxious for the good name of

the areas under their administration, that they may be induced to employ the law, to an extent that the circumstances do not justify. There is an idea also that Government officers not acquainted with the difficulties of journalists, do not realise what a serious matter the threat of proceedings under the Press Act is. We know too that there is, rightly or wrongly, a general impression that European papers—papers owned by Europeans—have not suffered to the same extent under the Act as Indian-owned papers. Generally, indeed, there is an idea that the Act is administered highhandedly and that its scope is unduly wide. We are quite alive to these criticisms of the Act. At the same time, during the war it was quite impossible for us to undertake any revision of it, and many Members of this Assembly will remember, that in 1917, a deputation visited His Excellency, and he declined at that juncture to make any alteration in the Act. In the same year, however, in August of that very year,—I had just come into office at the time,—we consulted Local Governments as to the possibility of amending the Act, with particular reference to the wide scope of section 4. We had in our minds, at the time, I may say, the case of the 'Comrade' a very well known case in which the wording of the Act was criticised. We received various opinions from Local Governments, but owing to the dangerous situation created at the time by the war, we thought it was inopportune to take action; nor indeed, with the pre-occupations which filled our time at that moment, was it possible for us to do so. Later, however, I received another informal deputation from the Press, and discussed the whole question with them. The main points urged at that time were, that no deposit of security should be demanded unless it had first been shown to the Court that ..... and that forfeiture should be made only upon an order of the Court. The deputation wanted of course the total repeal of the Act. But failing that, they asked for the repeal of section 4 and the modification of certain other sections and a provision for appeals; and I engaged to give the whole matter further careful consideration. Shortly afterwards, with the concurrence of the Secretary of State, we again addressed Local Governments, putting before them all the arguments which had been used, and suggesting various courses of action. In that letter, I ought to say, we also pointed out that with the termination of the War and with the inauguration of the Reforms, it was obviously necessary that Government should review the position and their attitude, from a new aspect. When we received replies from Local Governments, the question arose as to whether we should take action on the recommendations or not. We thought, that as the Reforms were just coming into operation, it would be wrong for us to initiate any action without consulting the new Legislatures and this is the genesis of this present Resolution. The constitution of the Committee, which will be appointed if this Assembly approves, will be entirely in accord with one of the amendments which I see down on the list,—that is, it will consist of at least two-thirds of non-officials—men whom, I am quite sure, that this Assembly will approve. We are very anxious that the views of the administration in this matter should be examined by the Committee, that our difficulties should be appreciated and that any steps that are necessary to prevent misuse of the Act should be taken.

There is an idea, of course, that this Act is used purely for political purposes; I hope I am not liable to be misunderstood in this matter, but I mean to repress extremist or seditious agitation. It is certainly not used at present to suppress legitimate political work, and I defy anybody to read what is published at this moment in many papers to say so. I think

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that Members will also admit that certainly some—I don't want to name them, but some extremist papers are allowed not only full liberty but almost license to preach open sedition and disloyalty. I do not think anybody can suggest that we are employing this Act harshly at present. At the same time the question for the Assembly to consider is, whether it is capable of being improved and whether we should not set our house in order and be in a position to meet the criticisms of the public. I may add that the Act is often needed and effectively used in times of religious excitement when no question of politics comes in question at all. Honourable Members are aware that when feelings are running high between different sects in this country, between Muhammadans and Hindus, Muhammadans and Christians, or Arya Samajists and Sikhs, violent effusions in the public Press are a very grave and serious danger to the public tranquillity and the Press Act has been used with such benefit in connection with such quarrels, to prevent publication of matters likely to lead to a breach of the public peace. Another purpose for which it is used—and I think very justifiably used—is to prevent the libelling and of attempts to blackmail Indian Princes. I do not know whether Members of this Assembly are aware—I think some of them are, as I heard a note of applause just now—that a certain section of the Press sometimes does publish such articles and we cannot prosecute any paper for such conduct under the ordinary law. At the same time, the Government of India and the people of India have received such loyal help from the Princes during the War and indeed at all times in all good work—charitable and other work—that it is our duty to do what we can to protect them and to secure them immunity from such nefarious practices.

All these points I will, however, place before the Committee in order that they may fairly and impartially investigate them, that the difficulties of the Press may be seen and also that our administrative difficulties and the danger from unbridled licence to preach sedition may be appreciated before they make their recommendations on the laws which are the subject of this Resolution.

**Mr. Eardley Norton:** Sir, I wish, in the first instance, to associate myself entirely with that strong expression of Indian opinion which for many years past has resented the existence of this particular class of legislative repression. It is not only the Indian who has felt that the time has come when this legislation should be withdrawn. Many Englishmen, I am too glad to think of whom I am the unacknowledged spokesman, share this view with their Indian brethren. Reference has been made to the *Yugantar*. I remember, when I was prosecuting for the Government of Bengal in the Alipur case, in which the pick and flower of the young, impassioned and misled Bengal youth were convicted—and justly convicted—for crimes into which they had been misled by their own Bengali Press—I well remember how youth after youth had eventually to confess that he had been practically debauched by the printed vernacular press of his own countrymen. And it was a pitiful spectacle to see those young men, who, if they were guilty, as they unquestionably were guilty, were at any rate actuated by honest motives of mistaken patriotism and succumbed to the teaching of Barindra Kumar Ghose, himself a victim to the misplaced energies of his own vernacular press. I am glad to think that they have all been returned since then to their homes safely, an act of clemency which I should like to see extended to others who are still in prison elsewhere and for other reasons. They have returned

saner men to my knowledge, and it is a curious comment upon their temporary exclusion from society that even Barindra Kumar Ghose, the fountain-head of the conspiracy, has abandoned all his former political opinions and is to-day 'the rising hope of stern unbending Tories.'

I have little more to say on this point than this: that I wish to thank the Government for the attitude they have taken up on this occasion. I foresee in this another happy augury of those more intimate relations which will exist between the two sides of this House, because I take it as being an indication that in future the Government will not stand, like modern Simon Stylites, as heretofore, upon remote pillars in inaccessible altitudes, that they will take us into their confidence, that they will tell us what they think and what they do and so enable us to join hands in that progress which, I am sure, is the common ambition of all the Members on both sides of this House.

That is all that I need say with regard to this measure. But, above all, I wish clearly to dissipate any lingering misconception in the minds of any of my associates here that Englishmen have stood by callous to the legislation we are about to investigate and I trust to repeal, my assurance will, I think, bring both sides of this House, Indian and Englishman, into a closer union for the progress and prosperity of both.

**Mr. T. V. Seshagiri Ayyar:** Sir, Honourable Members are aware that I have tabled a motion for the introduction of a Bill relating to the Press Act, that will come on the 24th, according to the Agenda. Sir William Vincent has taken an earlier opportunity to introduce his motion, and that, to a certain extent, may make it unnecessary for me to press for the introduction of my Bill. But, Sir, it is necessary that I should make a few remarks to show that the Act should be altogether repealed, and not be modified merely, as suggested by Mr. O'Donnell and by Sir William Vincent. I have given notice of an amendment to this Resolution on which I shall have to speak later on. At present, Sir, I wish to point out that what Mr. O'Donnell said regarding the attitude of Indians towards this Act is somewhat coloured by the official point of view. What he said was this: that non-officials rightly feel that the Press Act is an infringement of the liberty of speech and writing. I think he would be justified in saying—though he would not say it—I think this House would be justified in saying—that the Act is not only an infringement of liberty of speech and writing, but it is derogatory to the educated people of this country. It is humiliating to think that we have a law which requires a security to be deposited before a person can take up journalism. Sir William Vincent referred to the fact that previous to 1835 there was licence for printing and publishing; and I think, even under the Press Act, the idea, that the Press has to be licensed, has not altogether disappeared from the minds of the Government. I remember, Sir, a case which was argued in Madras by the then Advocate General, and he said that the Press Act is really a licensing Act. He said that this Act has been copied from the legislation of the third Republic in France, and Act I of 1910 was really intended to make the owning of a Press a licensed profession. Now, Sir, it is desirable that this House should emphatically say that there should be no Act on the Statute Book of this country which makes the profession of journalism one for which a licence must be taken. Notwithstanding what Sir William Vincent has said, I venture to say, that in the majority of cases the persons who own Presses and who conduct newspapers, do so with a view to serve their country, to serve the public, and to serve the Government. It may be that they are mistaken, it may be that they

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are wrong, it may be that they are even perverse; but there can be no manner of doubt that the object of a person who edits a paper is to guide, to instruct and, if possible, to interpret the thoughts of his countrymen to the Government. In the majority of cases, that is absolutely true; there may be one or two cases where, for sinister motives, this object is not kept in view; but, to say, that generally speaking, the Press is not doing its duty, is not true of journalism in this country. Therefore, Sir, where we have got a law which, according to the Advocate General of Madras, makes it necessary for the profession of journalism to take out licenses, just in the same way as an arrack or toddy shopkeeper has to do—where we have got an Act which makes the profession of journalism so degrading, I think the consensus of opinion in this House will be that that Act should be repealed, if the Reforms Scheme is to have effect and is to be worked cordially by Indians and Europeans together as suggested by Mr. Norton. I shall have to take the House, Sir, very shortly and briefly through the antecedent legislation which was referred to by Sir William Vincent. Sir William Vincent pointed out, that in 1835 the earlier Acts were repealed. The earlier Regulations of 1799, 1823 and 1827 were repealed no doubt in 1835; and I may here remark, that Mr. Norton may feel pride in this, for those Acts were repealed because of the agitation very successfully and very persistently carried on by non-official Europeans in this country then. Those Regulations were aimed at non-official Europeans who were conducting newspapers; and the war, which the non-official Europeans waged then, led to the repeal of those licensing Regulations. I am glad that the descendants of those people who fought for the liberty of speech in 1835 are still with us to help us in carrying on our work and are trying to help us to benefit by the example which was set to us by their predecessors.

Now, after 1835, there was the Registration Act of 1867. That Act was only intended to facilitate the proof of publication; the real object of that Act was to place newspapers in this country in the same position as newspapers in England. Then, Sir, we come to the Act of 1878. It was the first attempt to gag the Press. It was known as the Gag Pressing Act, and fortunately for this country, Lord Ripon came with a mandate to repeal that Act, and, I think, it was the rarest act of political sagacity which led to its repeal because, Sir, Members of this Assembly know, that the awakening, which we witness in this country among the masses, is largely due to the work and the immense influence which the vernacular newspapers possess. They have made it possible for the people to think that their political rights should be enlarged; they have made it possible for the people to think that their social condition should be considerably improved; and they have made it possible for them to think about industries. It is because of the work which the vernacular press has done, that there is this great change and the people of this country can never be sufficiently grateful to the memory of Lord Ripon for having put an end to the Press Act of 1878. From 1878, for about a period of 30 years, there were no repressive laws in this country. Then we come to the Act of 1908 to which Sir William Vincent made reference. He has cited instances which led the Government to embark upon that legislation. I was reading yesterday the speech of Sir Harvey Adamson when introducing the Bill, and I came to the conclusion that there was justification in those days for the measure; those were the days of the Partition of Bengal and, apparently, it was thought necessary that the Government should be armed with special powers.

But, Sir, as I shall point out later on when the House realises that the Act has ceased to be in operation, it will agree with me in saying it is no longer necessary to continue it. The Home Department has been good enough to furnish me with some information regarding the working of that Act. Mr. O'Donnell says that under Act VII of 1908, nine prosecutions in all were instituted. Seven resulted in the confiscation of the respective Presses at which the offending newspapers were published. Of these, four were in Bengal, two in the Punjab and one in Bombay. In one instance, the Bengal Government ordered the restoration of the Press on the owner tendering an apology and giving an undertaking that the Press shall never be misused in future; in another, that Government's order was set aside on appeal to the High Court. Now this is not the only thing. The most important thing to be noticed is that since 1909, there has not been a single prosecution under this Act. Now, Sir, if for eleven years the Act has been a dead letter, is it right to continue it as a Statute of the Realm? Its continuance is a menace to peace and good-will between the Government and the people. I would respectfully say that it should no longer disfigure the Statute-book. That is so far as Act VII of 1908 is concerned.

Then, Sir, we come to the Act of 1910, which is known as the Press Act. As I said before, it is the general opinion that it is calculated to make journalism a licensed calling. Now if that is the interpretation of the Press Act, it is absolutely necessary that it should go. There is one thing in favour of it, and that is, it had the sanction of Lord Morley for its introduction. That is the only thing that can be said in its favour. But Lord Morley in his Recollections has pointed out that he was very unwilling to allow the Act to be introduced, but that his hands were really forced. Apparently he was afraid that there would be *hartal* and non-co-operation if he did not consent to the introduction of Act I of 1910. He was anxious that the Reforms Scheme which he had prepared should be pushed through, and he was afraid that if he did not give his sanction to the introduction of this Act, officials in India would make it impossible for him to introduce the Reforms Scheme. It was under those circumstances he gave his sanction to it, as Mr. Montagu gave his sanction for putting the Rowlatt Act on the Statute-book because he wanted his reforms to be introduced. And I believe Mr. Gladstone before him had done the same thing in regard to Ireland and Lloyd George is doing the same thing now. But the point is that these Acts were never intended to be permanent. They were intended to serve a particular purpose. It may be that these political expedients should not have been resorted to, but if they are to be resorted to, it is not desirable that the measures should be continued for any length of time. Therefore, Sir, I say that, notwithstanding the fact that Lord Morley gave his consent to the introduction of the Bill, it is clear he did not wish that it should be allowed to continue as a permanent Statute. Now, Sir, the distinguishing features of the Act are about seven in number. I had only intended to refer to six of them, but Sir William Vincent's speech has brought to my notice another of the obnoxious features of that Act. I think it will be recognised that that Act did not create a new offence. The amendments of sections 124 and 153 of the Indian Penal Code had so enlarged the definition of 'sedition' that every possible attempt to promote disloyalty to Government, every possible attempt to spread disaffection could be punished under the Code. The object of the Press Act was, if I may say so, to take into the hands of the Executive the power which was previously being exercised by the Judiciary. If there is a prosecution under the Indian Penal Code, there would be a fair trial; witnesses would be examined, counsel



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would be heard and there would be an appeal from the judgment; whereas under the Press Act what would happen is this. The Government would consider that a particular article is offensive, and then they will instruct the Government Solicitor to go before the Presidency Magistrate to demand security. Therefore, for publicity, for right of audience and for right of appeal, the Press Act has substituted the discretion of the Executive. That is its first feature.

The second feature of the Press Act is this. It has for the first time—I do not know whether it is for the first time—explicitly violated the first principle of jurisprudence by directing the accused to prove that he is innocent.

In every civilised country and under every civilised system of law the accused is considered innocent until he is proved to be guilty. But under section 17 (if I remember rightly) of this Act, the moment that a prosecution is launched the accused will have come into Court to show that he is not guilty. That is an aspect of law which should not disfigure the Statute-book of any civilised country.

Another feature of this Act is, that there is no right of appeal. No doubt, Sir, an appeal is provided for, but as was pointed out by Sir Lawrence Jenkins in a famous Calcutta case, and by the Madras High Court, the High Court has no power to question the discretion of the Executive.

Another feature is this, that this Act gives room for the suspicion that certain newspapers are treated differently from others. I remember one notable instance of this during the period when Mr. Montagu was in India. At that time a certain newspaper wrote some very offensive articles against the Secretary of State and against the Viceroy. No action was taken against that paper, and it was said everywhere, in the clubs and by the public, that because it was a paper owned, published and edited by an Englishman, no action was taken. Sir William Vincent has very properly drawn attention to the fact that the Act has given room to such suspicion. When you have to depend on Executive discretion, it will give room to the suspicion that one paper is being favoured and another paper is not being treated in the same way.

Now, Sir, I must also point out that it is very difficult to interpret this Act. I tried my hand at interpreting it when I was a Judge, and I must say that I found it to be one of the most difficult Acts to construe. It may be said that the drafting was in the hands of a very capable lawyer. I think it was. But, Sir, where one has to deal with an Act which violates the first principles of law, then one is placed at a disadvantage. Where you have to draft an Act which does not satisfy you to be necessary for the country, the most skilled draftsman would not be able to put it in proper form. A cogent and well-reasoned Act is impossible where you have to fight against your conscience and where you have a suspicion it is uncalled for and that it is likely to subject a large number of people to vexation and humiliation.

That is the reason why, notwithstanding that we had an eminent lawyer to draft this Act, Sir Lawrence Jenkins and the Madras High Court pointed out the impossibility of interpreting the Act properly.

And lastly, there can be no doubt that this Act humiliates the *Intelligentia*. People are asked to furnish security before they publish a newspaper. It is a humiliation which no intelligent man would like to be subjected to. And

I must say that this Act has been the parent of considerable disaffection in this country. It may be said, Sir, that the discontent and disaffection that we at present see in this country are largely due to the Punjab affair. But had it not been for these Acts, the Punjab affair would not have assumed the proportion it really assumed. It is because the inflammable material had been collected by the Press Act, the Rowlatt Act and the Newspaper (Incitement to Offences) Act of 1908, that Jallianwalla easily set fire to it and produced a conflagration all over the country.

Now you must do something to extinguish this fire, and if you cannot extinguish this fire, you must try to control it and for this purpose you must have a number of machines. You must not depend on one machine alone, but a large number of machines operating from different angles should be employed. One of those machines should be labelled 'The Press Act Killer'—and I would gladly offer my services in that machine—and another machine you must call 'The Reforms Scheme,' and so on. By using these machines it will be easy to get the fire under control, and you will be able to do something towards advancing the contentment and prosperity of this country.

I have practically nothing more to say.

**The Honourable the President:** I allowed the Honourable member an extra minute when he uttered the word 'lastly'.

**Rai J. N. Majumdar Bahadur:** Sir, we are extremely grateful to  
 3-11 P.M. Government for having taken this question into their consideration, I mean, the modification of the existing Press Acts. I shall not be true to myself or to the country if I do not bring to the notice of the Government that there is grave dissatisfaction, and the sooner the Acts are taken off the Statute-book, the better for the prosperity of the country.

The repressive laws are no doubt to be used at times, and they may be useful, but they really never help us. In these times when the feeling of non-co-operation is so strong in the country, we must have the Press with all its strength to enable us to co-operate with the Reforms which have been introduced; but, if the Press is against us, it will be very difficult to do full justice to those Reforms. Having for the greater part of my life been connected with journalistic matters, I know the tremendous difficulties which confront those who run newspapers in this country. They do not receive all the privileges and all the encouragement which people in other countries in the same branch of life get. I do not remember a single journalist in this country receiving from Government any help or encouragement, even those who have devoted the whole of their lives to that profession. We know that in this country newspapers have been started by very poor people in some cases and they labour under a disadvantage. I should like to know what would happen in this country if all the newspaper concerns said that they would not co-operate. As it is, if all the newspapers from Cape Comorin to the Himalayas, from Peshawar to Chittagong, were to say that they would not co-operate, and were to cease to appear the next morning, I think the Government would be absolutely in the dark as to what was passing in the country. We should therefore make every endeavour to enlist their co-operation on behalf of the Government and this country. Newspapers have in their inner workings all manner of difficulties. They are always afraid of

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being caught for having printed something contrary to the Press Act and of their deposits being forfeited.

They may now and then misrepresent matters and intentionally preach anarchy and sedition ; but anarchy and sedition cannot flourish if there is no discontent in the country. No seed will germinate when the soil is not moist. If there is real cause of dissatisfaction, then only the newspapers get an opportunity of inciting the people, and the best thing to do is to go to the root and remove the cause of the discontent, instead of repressing the newspapers. Why not do that?—remove the discontent. If you suppress all the newspapers you will be quite in the dark.

Mr. O'Donnell has said that the Government is still responsible to the Secretary of State and not to the people of this country. There is therefore the greater need of our present rulers knowing the feeling of the country. As it is they do not know the feeling in the country. They do not know what is running in the minds of the people, and it is the newspapers only which give them some taste of what the people really think. And if you suppress all the newspapers, I think you will create more dangers in the way of the good government of the country than you will take away. Nothing is more appreciated in this country than the boon of a free press. Free discussion is held in high esteem all over India. And I do not see that there is any reason why, after enjoying for so many years the advantages of a civilised and good government and of education, we should not be able to arrive at a period of free discussion and wipe out all repressive laws from the Statute-book and revert to the position of a free press from which we started years ago. I know that some of the newspapers criticise officials, and officials get very angry with them and try to suppress them. But officials in this country must have a little of that thing called patience. Public men must always be ready to bear with unjust criticism, and the remedy lies not in suppressing those newspapers, but in sending for their editors, explaining the situation to them or in issuing Communiqués removing misunderstandings. The remedy does not lie in making arbitrary laws, nor in not giving them an opportunity of explanation nor in leaving everything to the Executive without giving them an opportunity of having their cases tried by regular Courts of law. Therefore, I beg to state that, instead of reporting what modifications are required in the existing law, I think there ought to be an amendment—the amendment of my Honourable friend Mr. Seshagiri Ayyar—incorporated into it. I understand, Sir, that Mr. Seshagiri Ayyar has given notice of a Bill for the repeal of all repressive laws. I do not know, Sir, whether this Resolution of Mr. O'Donnell is meant to be what is called a blocking of that Bill, or whether this Resolution wants to move along with that Bill, because when that Bill is introduced, I think there will be a Select Committee and that Select Committee may consider this matter, so I do not know what this Resolution really means, whether they want to shelve it by saying that a Resolution has already been passed or whether my Honourable friend wishes to help that Bill and to make the same committee the Select Committee of that Bill. Anyhow, I must thank the Government for having brought in this Resolution, but I would like that both these things—I mean the Bill that is to be brought in in this House and this Resolution—should be considered together by a Select Committee.

**Lala Girdhari Lal Agarwala:** Sir, I am very thankful to the Government Member for bringing this Resolution forward, as it shows the good intentions of the Government. But I submit that this is a time when all repressive laws should be repealed, and, if necessary, to strengthen the hands of the Executive, some amendments may be made to the Indian Penal Code, so that ordinary procedure may be followed when cases come up under those sections of the Code.

**Rao Bahadur T. Rangachariar:** Sir, in accepting this Resolution proposed by Government I wish to make it clear that I do so in a spirit of compromise and not in a wholehearted manner. The Government have asked us to co-operate with them and to see their point of view. It is in that spirit that I accept this proposed Committee.

I am rather apprehensive of these Committees. One Committee has led the country into a turmoil. I will not name that Committee, nor will I envy the non-official members who are going to sit on this Committee. They have a serious duty to perform. We know the Government will place before them materials which were placed before that other Committee. We know the danger of acting upon such representations, representations which were not subjected to those judicial tests which ought to have been applied. And therefore I would warn those gentlemen—happy or unhappy gentlemen—who are going to sit on this Committee that there lies before them a very heavy responsibility indeed. They are to come forth with a report which will be acceptable to the people; they are to come forth with a report which will be acceptable to the Government. And there is this satisfactory feature to-day in the appointment of a Committee which did not exist when the other Committee was appointed. The Government of to-day are in a changed mood, and therefore, I would ask the Government not to place before the Committee all the materials, but to examine the materials themselves beforehand whether they are worth being placed before the Committee or not. Because, after all, we are human, and we are likely to be misled by all these alarmist reports by the new Department—I forget its name; it used to be known as the C. I. D.; it has got a very enhanced name now; I forget what it is. I hope, Sir, that the Government will examine the materials themselves before placing them before this Committee, and I hope also that some latitude will be allowed to this Committee, not only to examine the Press and Registration of Books Act, but also to take such opinion or evidence of qualified men on the subject as may be available. Let not the duty of the Committee be merely to examine all the papers which are placed before them by Government. I hope the Committee will have the opportunity of taking opinion or evidence also before they frame their report.

With these words of warning, I accept this Resolution.

**The Honourable Sir William Vincent:** May I know whether Mr. Sheshagiri Ayyar has moved his amendment or not? I want to be clear on the point.

**The Honourable the President:** The Honourable Member was speaking on the main Resolution.

**Mr. T. V. Seshagiri Ayyar:** I have not moved my amendment yet.

**The Honourable the President:** I propose to call upon Chaudhri Shahab-ud-Din to move his amendment. But whether he will wish to have a debate after what has fallen from the Honourable Sir William Vincent is a matter of his own choice. Do I understand the Government to accept his amendment?

**The Honourable Sir William Vincent:** Government are prepared to guarantee that not less than two-thirds of the Members of this Committee shall be non-officials.

**Chaudhri Shahab-ud-Din:** There is another part, Sir, of my amendment, which by an oversight has not been put on the Agenda and which has been allowed by the President subsequently. I had three amendments only. One is incorporated in the\* Agenda and I am glad to say that it has been accepted by the Government. The second amendment was that the Newspapers Incitement to Offences Act No. VII of 1908 be included in the Resolution . . .

**The Honourable Sir William Vincent:** May I rise to a point of order, Sir? I understood that the Honourable Member was speaking on the particular amendment mentioned on the Agenda and that he was called upon to move that amendment alone.

**The Honourable the President:** Do I understand that the Honourable Member accepts the assurance of the Government? If so, he will not require to call for a debate on the subject of the amendment standing on the paper in his name. Thereafter, I will allow him to move the other amendment of which he gave notice, but which, as he says, has been omitted by accident, *viz.*, that the last eight words of the Resolution be substituted by 'which of these should be repealed, etc.' But before we pass on, does the Honourable Member wish to move the amendment the substance of which has been accepted by the Honourable Sir William Vincent?

**Chaudhri Shahab-ud-Din:** I will simply move that amendment which was not in the Agenda, namely, "That the last eight words of the Resolution of the Mover be substituted by the following words 'which of these should be repealed or modified and in the latter case what modifications are required'."

**The Honourable Dr. T. B. Sapru:** Sir, I rise to a point of order. Before the Honourable Member proceeds, the Government would like to know, and the House also would, I suppose, like to know, as to whether the Honourable Member intends to go on with the amendment after what Sir William Vincent has said that we are prepared to accept it. We want a definite Yes or No with regard to this amendment.

**Chaudhri Shahab-ud-Din:** I do not propose to discuss now my\* first amendment; it is the second amendment that I want to deal with.

**The Honourable the President:** Will the Honourable Member kindly read the amendment which he proposes to move now?

**Chaudhri Shahab-ud-Din:** Sir, the amendment, is, "That in place of the last eight words of the original Resolution the following be substituted 'which of these should be repealed or modified, and in the latter case, what modifications are required' ". This in substance is the same as that proposed by the Honourable Mr. Seshagiri Ayyar in the second part of his amendment.

\*In Mr. O'Donnell's Resolution for the words 'of officials and' the following be substituted:—

'of whom not less than two-thirds shall be'.

that is, 'whether all or any of them should be repealed totally or in part and if not.' In substance his amendment and my amendment are identical.

Sir, the Resolution as it stands, if accepted by the House, is liable to be construed to imply that the Select Committee which will be appointed to consider the question of modification will be restricted to only recommending modifications and not repeal, if necessary . . .

**The Honourable Sir William Vincent:** May I explain that we intended this by the Resolution as originally worded? The words used are to report what modifications are required, not in these Acts, but in the existing law. I have no objection however to this amendment of the Honourable Member, though I do not believe that it makes any difference in the terms of the motion which was originally proposed.

**Chaudhri Shahab-ud-Din:** I am thankful to the Government for accepting my amendment in its spirit.

Now, I will say only one or two words on the original motion which is still under discussion and then I will sit down. The repressive laws, of which these two Acts, Act 7 of 1908 and Act 1 of 1910, form the subject-matter of the Resolution to-day, are an insult to the loyalty of India and a blot on the constitution of the British Government. These newspapers, to my mind, are so many mouthpieces of three hundred millions of Indians, and Government should always be prepared to hear what they have to say. They should have the patience, they should have the tolerance of hearing the grievances and the feelings of Indians ventilated through their mouthpieces. If you repress the Press of the country, you muzzle the mouthpieces of Indians, and this must naturally excite public feeling. I, therefore, strongly endorse the Resolution with this further remark that I endorse every word which has been uttered in this House by Mr. Seshagiri Ayyar.

**The Honourable Dr. T. B. Sapru:** I move that the question be put to the House.

**The Honourable the President:** The original question was:

'That this Assembly recommends to the Governor General in Council that a Committee of officials and non-officials be appointed to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and report what modifications are required in the existing law.'

since which an amendment has been moved:

'That for the words "officials and" the following be substituted "of whom not less than two-thirds shall be":'

The Amendment was adopted.

The second amendment is to substitute for the last eight words of the Resolution the following:

'Which of these should be repealed or modified, and in the latter case what modifications are required.'

**Mr. Jamnadas Dwarkadas:** On a point of order may I inquire if Mr. Seshagiri Ayyar will have a right to move his amendment if this amendment is accepted?

**The Honourable the President:** If the Honourable Member wishes to move it after the course of the debate, he will be in order. He still has the right to move the amendment if he so desires.

**Mr. T. V. Seshagiri Ayyar:** Sir, I wish to move the first amendment which stands in my name :

'That after the words 'and the Indian Press Act, 1910' the words 'and the Newspaper Incitement Act, VII of 1908,' be inserted.'

I have already explained why that Act should be included in this Resolution. The Incitement to Rebellion Act is really a part of the Act which aims at the liberty of the Press. I have pointed out already that since 1909 no action has been taken under it.

There is one more reason why this Act should go out and that is that it does not create a new offence, for the offences of incitement to rebellion and incitement to murder are punishable under the common law. What is peculiar to this Act is this, that there is a special procedure prescribed in the Act. The procedure is to enable, after launching the prosecution, the police under the instructions of the Local Government to enter upon the premises where the Press is kept to seize and to confiscate it. It is for that procedure really that this Act exists. Now, as I said, there is really no justification for the Act, but, even if the Act should be on the Statute-book, the procedure portion should be in the Criminal Procedure Code and not in this Act. If you want to have a procedure enabling action to be taken while a prosecution is pending, the proper way to provide for it is in the Criminal Procedure Code. I understand that the Government is about to revise the Criminal Procedure Code. They have provided in the Civil Procedure Code rules for attachment of property, for injunction and arrest, and so on. Similar provisions might be included in the Criminal Procedure Code, namely, that in cases of particular offences for which, when a prosecution is pending, it is desirable in the view of Government that there should be a seizure and confiscation. If you do it in that way it will be alright. On the other hand, to tinker with the procedure will be most drastic, and, as one who has had experience of administering justice, I say this method of tinkering with procedure will lead to serious difficulties. The Act contains one or two sections about procedure and then refers to the Code of Criminal Procedure for the rest of the procedure. The result is that one is not in a position to know whether all the incidents attaching to the general procedure can be grafted on to this Act. We had a curious example of that with regard to the Limitation Act. The question has arisen whether the rules of limitation in special Acts are exhaustive of all principles of limitation, or whether they were supplementary to the general Limitation Act. This led to a conflict of opinion, and an amending Bill had to be introduced. Similarly, where you have one portion of the criminal procedure in one Act and have to refer for another portion to the Criminal Procedure Code, there will be great difficulty and Judges will not easily know what the intention of the Legislature was.

For these reasons in the first place, because the Act is unnecessary and has been a dead letter since 1909; in the second place, because if you want to have procedure the proper place for it is the Criminal Procedure Code. I ask that this Act be repealed altogether.

**The Honourable Sir William Vincent:** Sir, the Government is quite prepared to include this Act within the scope of the inquiry of the Committee. Indeed, I hope I am not guilty of a breach of confidence if I say that I said so to the Honourable Member before he moved his amendment further as he has such talent for criticising the draft. As for others, I hope

we may have the advantage of his assistance on this Committee to see if he can do any better himself. I think he will find that destructive criticism is very much easier than constructive criticism—*experto crede*—Believe one who has tried.

There were one or two arguments or comments, however, to which I shall allude briefly. The Honourable Member began by admitting that when this Act was passed it was necessary. I hope I am not misinterpreting what he said. He then went on to say. 'But you have never used it since 1909.' Well, I want to put it to this Assembly. What is the Government to do in this matter? If we use an Act, we are told we are oppressive; if we do not use it, we are told it is not needed. That is not a reasonable attitude. As a matter of fact, Government did use the Act when it found it suitable; and merely because we have abstained, as far as possible, from using it recently, surely we are not to be exposed to the censure of this Assembly. The Assembly cannot have it both ways in these matters. As my Honourable Colleague (Dr. Sapru) puts it, we cannot be charged with errors of commission and omission in the same breath. At least it seems a little unfair.

On the main point, however, I have no objection to including this Act within the scope of the inquiry. Indeed I think the proposal is a distinct improvement on the original one.

The motion was adopted.

**Mr. T. V. Seshagiri Ayyar:** Sir, will you allow me to say one word? I do not want, after the acceptance by the Government of my amendment, to press the matter; but I must ask the Government to let me know whether they will allow my motion to introduce a Bill to go before this Committee. My Bill is before the Government. The Committee will be in a position to examine the whole situation with regard to that Bill when they are examining the various enactments, and decide whether it should be repealed or not. That would be more satisfactory: otherwise I will have to press my motion to introduce the Bill before this House.

**The Honourable Sir William Vincent:** Sir, the amendment has been accepted in substance; but I think the Honourable Member has now put forward a proposal which it is much more difficult to accept. I understood that the Honourable Member was going to approach this question, if he served on the Committee, with something like a judicial frame of mind; that he was going to approach the question impartially and after inquiry to see whether it was necessary to repeal or whether it was necessary to modify the whole or portions of the Act. His present proposal suggests, on the other hand, that he is going to approach it with a mind entirely prejudiced in favour of his own Bill; he wants his own Bill to be put before the Committee before it has completed its inquiry, and I have some difficulty in accepting his proposal. I hope that he will approach the matter more impartially. Once the report of the Committee has been submitted, he can press his Bill as much as he pleases, if he finds it necessary, but I hope that he will wait until the present inquiry is completed.

**Mr. T. V. Seshagiri Ayyar:** I do not press my amendment, Sir.

**The Honourable the President:** The amendment has been accepted. The decision has been taken by the House.



**Mr. Jamnadas Dwarkadas:** Are we not entitled to speak, Sir?

**The Honourable the President:** Yes, certainly.

**Mr. Jamnadas Dwarkadas:** Sir, I do not want to detain this House at this late hour and inflict on them a speech, especially in view of the fact that we had very lucid speeches from Sir William Vincent and my Honourable friend Mr. Seshagiri Ayyar. But I do believe that some remarks of my Honourable friend Sir William Vincent call for an answer. Sir William Vincent in the course of his statement said that the Press Act had been more or less fairly used during all these years. I take strong exception, Sir, to that remark, with due deference to my Honourable friend, Sir William Vincent. The Press Act, when it was passed by the Legislative Council in 1910, it was stated clearly, would be used against persons who were—and it is laid down in the Act itself that it would be used against persons who were—definitely known to be entertaining enmity against the British Government or creating disaffection amongst the people. Now, I submit without the slightest hesitation that the Press Act has been used in many instances not against persons who have been known to be inimical to the British connection or who have created a feeling of disaffection among the people, but it has been used very often for the purpose of putting down the legitimate aspirations of the people of this country. I submit that editors who could never be dreamt to have entertained the slightest idea of enmity towards the British connection but who have carried on in their papers agitation for the purpose of securing for the people of this country their legitimate right of political freedom. I submit that these editors have been dealt with under the Press Act. I only thought it necessary to correct this remark of my Honourable friend, Sir William Vincent, because I think we have conclusively proved long before this that the Press Act is unnecessary and is such as the people most emphatically resent the existence of. I have certainly thanks to offer to the Government for the attitude that they have now taken up, and I am sure that when the Committee is appointed and it meets, it will see its way not merely to modify, but to repeal, this obnoxious Act.

**The Honourable the President:** The question is that the Resolution, as amended, which runs as follows, be accepted :

‘This Assembly recommends to the Governor General in Council that a Committee of whom not less than two-thirds shall be non-officials be appointed to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspaper Incitement Act, VII of 1908, and report which of these should be repealed or modified, and in the latter case what modifications are required.’

The motion was adopted.

The Assembly adjourned to Thursday, the 24th February 1921.