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Towards a Responsible Press

*Shri C. Rajagopalachari's Speeches on the
Press Bill in Parliament*



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Speeches delivered by
THE HON'BLE SHRI C. RAJAGOPALACHARI
MINISTER FOR HOME AFFAIRS
on the Press (Objectionable Matter) Bill, 1951
in the Indian Parliament
(Sept.-Oct., 1951)

The Press (Objectionable Matter) Bill, 1951, was introduced in Parliament on August 31, 1951, by the Hon'ble Shri C. Rajagopalachari, Minister for Home Affairs.

The Bill which sought to provide against the printing and publication of incitement to crime and other objectionable matters, contained 34 clauses and two schedules.

STATEMENT OF OBJECTS AND REASONS

In the course of the debates in Parliament on the Constitution (First Amendment) Bill, Government promised to introduce as soon as possible a Press Bill which would be free from the objectionable features of the Act of 1931 and be in consonance with the new Constitution. This Bill is being introduced in accordance with that undertaking.

The provisions of this Bill are directed against the encouragement of violence or sabotage and certain other very grave offences and against the publication of scurrilous matter. The definition of 'objectionable matter' has been strictly confined to this purpose. All existing laws exceeding the limits prescribed in this Bill or which are against the provisions of the Fundamental Rights guaranteed in the Constitution are specifically repealed. In particular it may be mentioned that no pre-censorship will be imposed on any newspaper. No action will be taken in anticipation but only after a proved abuse of the freedom of the Press by publication of objectionable matter as defined.

The provisions of the Act of 1931 under which security could be demanded when a newspaper is started are to be no longer in force. Security will be demanded only after proof of actual abuse of the freedom of the Press by publication of objectionable matter; and even then the demand of security or its forfeiture will not as under the Act of 1931 be matters to be decided by the executive. In every case orders will be passed only by a judicial authority, that is, by a sessions judge after full trial, hearing the Government as well as the keeper of the press or the publisher of the newspaper complained against. The respondent will have the right to claim trial by a special jury composed of persons particularly qualified to sit in judgment over cases of abuse of the freedom of the Press by journalistic experience or by association with public affairs.

~~A right of appeal is provided to the High Court on all points involved in every case.~~

On September 7, 1951, Shri C. Rajagopalachari, moved in Parliament that the Press Bill be referred to a Select Committee of 34 members.

He said :

This Bill is moved in fulfilment of the promise that I made at the time when the constitutional amendments were in progress in this House. I do not think that I need take up the time of the House with any general observations. The Bill now deals with the abuse of the freedom of the Press to which so much reference was made at the time when the constitutional amendments were proposed. It is impossible to have any freedom properly guaranteed unless we prevent the abuse of that freedom. It should not be taken that because a law is proposed to be enacted dealing with offences or with abuses that abuses are common or that abuses are widespread or that the whole nation is guilty of crime. The idea is that abuses should be put down and they should be prevented as far as possible, so that the main body of persons engaged in the occupation or profession to which the Bill refers may carry on their work without detriment to their dignity, prestige, influence or position. It is only those who commit abuses that bring down the general level of importance and prestige and it is certainly in the interest of the persons themselves who are engaged in this profession that they should give support to the Bill that I am proposing. ✓ The features of the Bill are these :

Hitherto any one who wanted to start a printing press or who wished to start a newspaper or a periodical of any kind would have had to take his chances with the executive and he could be called upon to give security at the very first instance and the magistrate who records the declaration would have the right to ask him to furnish security. Under the law now proposed, we propose to abolish that feature of the Press law. This Bill will entirely replace the law of 1931. This was a provision in the present law to which objection has been taken for a long time. We take this occasion to propose that this should be abolished.

Under the Press (Emergency Powers) Act, 1931 which this Bill is proposed to replace, demand of security and forfeiture of that security were matters within the discretion of the executive authorities. This was rightly considered obnoxious. Even though there was an appeal provided, in the existing law, to the High Court, that appeal was restricted to a consideration of very precisely limited issues. Under the present law as I propose now that the House should accept, it will be found that no orders either for demanding or for enhancing or for forfeiture of security may be issued by the executive authorities. Such orders, according to the draft Bill, can only be issued by a judicial authority after hearing both the Government and the keeper

of the press or editor and publisher. And the High Court shall have the right to hear appeals in all such cases; not only hearing appeals on narrow issues, but hearing and deciding matters on any issue on the merits of the case. Even the very first order will have to be issued by a judicial authority, no less than a sessions judge.

Another point to be remembered is that in the existing law, one of the most effective, though much disliked, provisions was pre-censorship, which could be imposed upon newspapers; not only in times of emergency, but whenever it was considered by the Government that it should be done. In the Bill before the House, there can be no pre-censorship of newspapers in any matter. This has been secured in this Bill by the express repeal of all those provisions in the State enactments which give this power. Hon. Members are aware that no such provisions exist in any Central enactment and therefore there is no need to repeal any Central enactment to that effect. There will be no pre-censorship. That is to say, those who are in charge of newspapers and periodicals will be entitled to commit their offences. They are not helped in the art of conducting a newspaper with help from the Government or any officials set apart for that purpose. They will be entitled to do just as they like, only with the law before their eyes. // Any proceeding which the Government can initiate would only come after the commission of a distinct breach of the provisions with reference to objectionable matter. // That is a very important change.

Madam, the changes that we have introduced in this Bill are very fundamental. But, they are likely to go unobserved and they are likely to be appraised below their value by reason of the continual pressure of a very free and very active press in this country. But, I must take your permission to point out that these two provisions that we have introduced in a negative way, namely, the abolition of any authority for demanding security from a printer before starting publication, in any case however bad, although he may have been a previous offender, there is no power for the Government to demand security, and the provision that no action can be taken till after a definite breach has been committed in respect of the abuse as I would call it, of the freedom of the Press, are fundamental changes in the law that we propose in this Bill.

A further provision, as I promised at the time when the constitutional amendments were being considered, has been introduced here. Because this is not a law which provides for a definite prosecution and punishment under

the ordinary penal code, the definitions must necessarily be a little wide, so to say. Because we are dealing with written matter and things of that kind, we have to describe objectionable matter in terms slightly different from the manner in which we can describe objectionable matter in the ordinary penal code. (A writing is objected to because it has a certain tendency.) Nobody in the world, no editor worth his name, would write "I appeal to people to commit murder. I appeal to people to commit house-breaking, I appeal to people to commit burglary or assault." (But tententious language is used for that purpose by any person who has wrong intentions in his mind.) He chooses his language carefully. So we have to deal with matters which tend to produce such results, in the opinion of the court. And that is why we have to steer, so to say, between two dangers. We should not define the matter in such a way that anybody could be roped in and the executive could victimise anybody. At the same time we should not rob the executive of all preventive capacity by providing that only definite incitement to murder or sabotage should be proscribed and nothing else. Therefore we have provided judicial courts for trying the matter and this should go a long way in avoiding the danger of too wide an application.

That is why I claim that this is a very important change, a far-reaching and fundamental change that we have made in the law as now proposed, that every case and every issue should be tried, not by a magistrate under governmental authority or administrative authority, but by a sessions judge. And further than that, as I promised, I have introduced here a clause by which the sessions judge will be assisted by a jury—a jury composed of persons specially competent to decide matters of this kind.] Whether according to the practice in the profession, according to the good standards prevailing in the profession, a certain thing is objectionable or not, can best be decided by men belonging to the Press and to public life nearly related to the Press.] Provision is included here by which each State makes up a list of competent and special jurors and out of them, whenever necessary, a proper jury which commands the confidence of the person charged could be empanelled when the case is being tried. So this is a very important additional precaution that has been provided for safeguarding the rights of the Press in this matter. That is covered by a particular clause to which reference can be made at the time the clauses are taken up.

Then again, there was a provision in the old law by which the Government could ban the circulation of a particular item or a particular issue of a paper and ban the circulation itself. This power is totally removed under the proposed law here. In the Bill it is proposed expressly to repeal those provisions in the State enactments which gave power to the Government of banning circulation or doing anything of that kind.

I need not refer to minor details at the present stage. There are certain minor but sufficiently important provisions whereby the position is made favourable to those who are in charge of newspapers and periodicals.

The net result of the changes will be that when it is judicially established that a press or newspaper has been guilty of a substantial and serious offence, it will not be punished as for an offence, but a guarantee is to be taken against repetition of the breach. It will be seen on a close examination of the Bill that the first offence is followed only by security being taken. A guarantee is taken against a repetition of the offence by the same newspaper.

If a newspaper publishes matter which is either treasonable or incites murder or violence, or is scurrilous or grossly indecent, or offends in certain other ways that are specified under clause 3 to which I shall immediately make a reference, the Government will have power to bring the matter to the notice of the judicial authority and to obtain a finding of that authority after fair trial. No power is taken by the Government for doing anything by itself. They can only suggest that security may be taken and it is for the court to decide whether security should be taken and if so how much it should be. Second offence should be proved before a judicial authority so that the security may be enhanced or forfeited either wholly or in part. This, in my opinion, is much milder than what a prosecution for an offence under the Penal Code would involve.

Then we come to the main question: what are the things which are considered objectionable? This is defined in clause 3. It has narrowed down very largely the provisions of the corresponding clause in the Act of 1931. Sub-clause (i) refers to whatever encourages or tends to encourage violence or sabotage for the purpose of overthrowing or undermining the Government. Sub-clause (ii) deals with incitement or encouragement to any person to commit murder, sabotage or any offence involving violence without reference to the overthrowing of the Government. Sub-clause (iii) deals, apart from violence, with interference with the administration of law or justice, or

with the maintenance of law and order or with the maintenance of laws regarding the essential supply of commodities and services. Sub-clause (iv) deals with tampering with the loyalty of the armed forces and the police force or dissuading them from their allegiance. Sub-clause (v) deals with intimidation of public servants by saying things which would coerce them thus trying to bring about a break-down of public administration. Sub-clause (vi) deals with class enmity and hatred. Sub-clause (vii) deals with straight-forward criminal intimidation, which is very often practised by a large number of newspapers, of which Hon. Members may not be readers but there are quite a lot of readers and the papers are very effective in their own way in achieving their objects. Intimidation of the grossest type is sometimes practised, because in our country reputation is prized very much by those who possess it. Men and women are very eager to keep their good names untarnished but at the same time the Press is not equally delicate in the matter and the courts do not very much bother about those matters. Somehow or other in our country private feeling is such that a man would rather bear with the evils than go to a court and multiply them. That is the unfortunate position in our country and I think we should have a clause like that. Sub-clause (viii) deals with matters which are grossly indecent or scurrilous or obscene. There is the ordinary law to deal with obscene matters but this is intended to deal with very gross offences of the kind which require immediate public notice, apart from individual prosecution. Thus these provisions in clause 3 form the fundamental matter with which we have to deal in this Bill.

A general argument has been advanced by gentlemen representing the Press with which I may deal here briefly. At the time when the constitutional amendments were being discussed the idea was very prominently put forward that the Press was an institution of the greatest importance in the country and a special provision should be made with regard to the freedom that the Press should enjoy. Now, however, a slightly different turn is given to the argument and it is claimed that the Press should not come under any particular penal law that it should share with the ordinary citizen whatever is imposed by way of penal law and that there should be no special independent Press law dealing with offences committed by the press. Here, however, the argument has to be met by me, briefly, in this way, that we are dealing with a very special case. The Press Enquiry

Committee which was appointed in 1947 and which made its report in 1948, has dealt with this point very clearly. They have considered the question whether we may leave it to the ordinary law and we need not have any special enactment dealing with newspapers and periodicals. I would ask Hon. Members to verify the substance of their remarks. This is what they say :

“All these provisions”,
namely, provisions in the ordinary penal law,

“ of law depend for their operation on the fixing of the identity of the individual concerned.”

Anyone who has had anything to do with the criminal law and the application of the criminal law in this country knows very well the importance of this point : unless the identity of the individual concerned is established no penal law can be put in operation. Then—

“In case of a newspaper, which is the composite product of the joint effort of several persons, personal responsibility can hardly be defined or fixed.”

Wherever we deal with offences by corporations this thing turns up and a certain amount of vicarious responsibility has to be dealt with. The Committee, further deal with this matter in these words :

✓“Except in a few cases, where the writer of an article is known, it is difficult to fix the identity of the individual or individuals responsible for a breach of the law involved in the publication of an article in a newspaper. The legal responsibility of the printer, publisher, and editor is well understood, but punishment is likely to be vicarious, and this consideration raises doubts regarding the propriety of the imposition of a sentence of imprisonment in most cases. The effect of pernicious propaganda carried on by newspapers day in and day out is likely to be more far-reaching than that produced by speeches”

—and, I need hardly say, by an individual offender. Then—

“In the case of an individual culprit, the object of imposition of sentences is punitive, preventive or curative. The case of a newspaper guilty of an offence is generally dealt with by the imposition of a fine, and, unless the fine is heavy, it is not likely to have any preventive or curative effect. The maximum amount of fine may not prove adequate in all cases, and, in these circumstances, we consider that” etc., etc.

I submit that apart from the fact that only a fine can be imposed and even that fine is restricted not only by the law but by the very jurisdiction of the court that is in

charge of the case in most cases, it is very necessary that we must discover a different weapon in dealing with offenders and not simply treat the Press as a part of the normal citizenship and say they must be governed by the ordinary law. On the other hand, in favour of the Press this has to be said, that they have to do their work; they are an important limb in modern civilization. They have to bring out their daily newspaper overnight: they have to get it all ready, the matter has to be accumulated, the whole thing has to be printed and got ready, and it is hardly fair to treat any offence as the offence of any particular person concerned, it is hardly fair to treat every offence in the same manner as we would treat other offences committed after deliberation, by individual effort and determination. Therefore, it is that here we propose that when objectionable matter of this kind has been indulged in—and not only indulged in so as to draw the attention of the executive, but so much indulged in, and in such a measure, as to convince a court, after full trial, that the case deserves special notice—then security is ordered. Then, when a second offence is committed it shows a certain amount of deliberate intent, and that is the reason why forfeiture, wholly or in part, is provided for.

Madam, this is all that I would like to say at the present moment.

An argument has been advanced that it is very wrong to pass this Bill, because the objectionable items in clause 3 make it look as if the whole Press is behaving in this way, i.e., creating confusion, persuading and inducing people to commit sabotage and violence and the like. Now, that is a wrong way of dealing with the matter. No penal code can be enacted if this argument is to prevail. Take the ordinary penal code. Murder and rape are provided for there. Does that mean that people in India ordinarily commit rape and murder? Even take the last Bill that we passed—the Indian Companies Amendment Bill. There may be Hon. Members who think that 99 per cent of them may be bad, but there are people who accept it because bad cases should be provided for. If we provide for punishment for an offence, it does not mean that everybody is committing that offence. Any penal code is open to that objection. We cannot allow the large freedom which the Press enjoys and the great influence which it now enjoys under modern conditions to go without some conditions. The number of copies printed is running now into astronomical figures in all countries and very nearly so in our country and the avidity with which people read is remarkable. So, taking

literacy and all that into account, the effect of a particular breach is enormous just now. That is why Parliament must make up its mind to give the Government the powers that are proposed in this Bill. It is not done with any notion that the Press as a whole is going wrong. We have the highest regard for quite a large number of those who are in the profession, but we have found one unfortunate thing and that is that in this as in other professions it is very difficult for members belonging to the profession to control, if I may say so, the black sheep in their profession. It is very difficult and I have seen enough in the course of the progress of this very measure that that is a very vital point to be kept in mind. There are people who are very responsible, but they are unable in fact to put forth as much noise and exercise as much power as those who are less responsible. We have to go to their help with a Bill of this kind.

It may be said that the provision that we are proposing by way of trial by jury goes in the opposite direction. I submit, Madam, that we have to do both things in these matters at the same time. We have provided a jury, but we have provided also power for the Sessions Judge who thinks that the jury's verdict is perverse to make a reference to the High Court and get a further verdict. He himself cannot reverse the jury's verdict according to the proposals I am making, but he can refer it to the High Court. Gradually I hope that when members of the Press are themselves given the occasion and the authority and the position where they can judge their brethren, an ethic will be evolved which will make this Bill a dead letter. My own feeling is that while I take so much trouble over this Bill and while Hon. Members take so much trouble over this Bill, when, after all that, it is passed, the country will find that rarely will this Bill have to be put into operation, because as at present clause 3 pares down the offence to such a degree that nobody will be found to be doing anything which can be proved in the Sessions Court or before the High Court to be an offence in terms of the language of clause 3. People who manage the Press, even if they desire to commit a breach as indicated in this clause, will be able to do it in such language that no judge can hold the man guilty of the offence. I know that when this Bill is passed it will be practically a dead letter. I do not make a promise of that kind. It may be that the Companies Act may not be allowed to be a dead letter, but it would be a good thing if the Press law could be allowed to be a dead letter, because the stringency of the limitations placed upon

the powers of the Government is such that I do not hope for any severe measures at all. The only thing about which I have some hopes is the last sub-clause (viii) dealing with scurrilous, indecent and obscene matter. I hope that this will hereafter be a little less than it has been before, because under sub-clause (viii) we can take action and bring grossly indecent or scurrilous matter to court and the court would not be disinclined to give an award against the person really guilty of obscenity or grossly scurrilous matter and even the jury may not be disinclined. To a large extent, the jury has a great and responsible duty to perform in that connection, because it is not possible to define what is obscene. When I was young I could define it easily, but now, after I have seen all that has been printed and published in modern times, I cannot define really what is obscene. Everything which I thought was very obscene is now allowed to be seen not only by men, but even by women and children and by everybody. It is impossible precisely to say when a thing is obscene or scurrilous. I have read certain periodicals now and then, items which pass the limit of any idea of decency. Yet they are allowed to be printed by fifty thousand and sixty thousand and distributed. Recently I had the good fortune of seeing something written about myself and I then spent a couple of minutes thinking whether that could be brought possibly under a provision like this. I found that even that matter to which I was mentally so much objecting could not be called scurrilous, or indecent or obscene. Still it was very bad.

“The word ‘grossly’ is put in to qualify the word ‘indecent’, because ordinarily indecent things have come to be permitted.

Madam, I hope that this Bill will have a fairly easy time in the House and that we will be able to pass it. I move that the House accept the proposal to put it to a Select Committee. The Select Committee is large and representative of the whole House.

After a full debate in the House running for several days, the Home Minister replied as follows on September 15 :

Madam, it really gave me great pleasure to hear the last speaker. I was wondering whether he would lose his temper in the course of the debate, but on the contrary, I was very glad to see that he argued as I wished he should argue. He is an old friend of mine, though I have much misunderstood him and he has much misunderstood me on many an occasion. I was really glad that he preserved his temper and did not do injustice to me, beyond what matters I shall deal with, on mere matters of explanation and interpretation. But, having said this, I must proceed to deal with another Member.

At an early stage of the debate, an Hon. Member was pleased, in his dislike of me, to find a bad name to give me and so he called me Chanakya.

Shri Kamath : It is not a bad name at all; definitely not a bad name.

Shri Rajagopalachari : Now, Chanakya,—Some call him Vishnu Gupta, historians call him Kautilya—is a great name . . .

Shri Kamath : An honoured name.

Shri Rajagopalachari : . . . in Indian political and administrative history.

Shri Kamath : In the history of the world.

Shri Rajagopalachari : I do not think I deserve the great honour of the name of the illustrious Chancellor of Chandra Gupta Maurya.

Shri Kamath : That is your modesty.

Shri Rajagopalachari : The intention of the Hon. Member was not to honour me. It was only my good luck that a good name occurred to him for which I thank the goddess of accidents.

Reference was made by the Hon. Member to a case wherein a non-Madrasi agitator was prosecuted for sedition in a district of Madras when I was Premier. As soon as the case was concluded and sentence pronounced, I issued an order of release by telegram. I need not go further into the case or the merits of the action taken against one who had later a very chequered career, part of which was spent in the Communist party. But, I may say he is still a good friend of mine and he would not approve at all of Shri Mathura Prasad Mishra's remarks. My administration of Madras when I was Premier there fifteen years ago, apparently, does not please or satisfy Shri Mathura Prasad Mishra. But, others have dealt with it and appraised it, who were at that time old enough and better qualified than my young friend from Bihar to judge my work and my aims. Any way, the people of that province do not look upon me as having been a very bad Premier or poor administrator.

Shri Mathura Prasad Mishra dislikes me so much that he could not believe that I was the author of its provisions when people told him that a good Press Bill had been introduced. But,

he has since examined it and found it bad enough for me to be the author. He further said that the Prime Minister did not know about it at all until I whispered in his ear that there was this Bill waiting to be passed. If the Member will ask others and learn the procedure of Government, he will understand that Bills are brought to Parliament only after Cabinet approval. Also he may read again the President's Address at the opening of this session and see that the Press Bill was referred to in it. As for the Prime Minister's assurances and Mr. Mathura Prasad's understanding of them, he had opportunities at another place to put the question specifically to the Prime Minister and I think he obtained adequate answers from him clearing his doubts. Lastly, he will forgive me advising him to deal with the merits of any problem or issue before him and not to yield to the temptations of personal prejudice. I shall leave Shri Mathura Prasad Mishra at that. I am sorry for having had to refer to this. Older parliamentarians will forgive me for dealing with Shri Mathura Prasad at this length. It would not have been respectful on my part to have ignored him altogether.

Before I go into the subject matter of this most interesting debate and reply to the points made, I must congratulate Shri Deshbandhu Gupta,—I won't call him by his new name—on the most able presentation of his case. The orderly and skilful presentation as well as the style and method of exposition displayed the highest parliamentary ability. I cannot, of course, say the same thing of the substance of it, being sincerely convinced of the need for this or some other law to deal with the subject.

I cannot help my conviction that it is necessary to have a revised and reasonable law, setting out as clearly as possible certain minimum restraints which a free Press should cheerfully accept and which are accepted tacitly or expressly in all civilised and free countries that do not want disorder and disturbance. A democratic government depends on the support of the masses, their continued intelligent support, not on any physical strength with which the Government may quell overt disorders or attempts at violence. When people ask us to depend on that strength and not resort to preventive measures, I am left wholly unconvinced. We cannot afford to let people's minds be poisoned. I want the very earnest attention of the House to this point which may look academical, but which is extremely important in the practical affairs of life.

The basic qualities of our people's character are as good as of any other people in the world. I shall not claim more, though I may. But, alas!, we cannot say that they cannot be easily misled or hypnotised by repeated phrases. That is the result of the very goodness of which I am proud.

Even if the majority of the people are firm in their thought and conduct, and unshakable by suggestion and incitement, there are, in a population of 400 millions who form this Republic which has discarded traditional respect for ruling dynasties or of ruling classes, and now depends on the commonsense of its people in general for order and good government, there are in this vast multitude, quite enough numbers of men and women in every area who can, if misled, make wasteful disturbance, discord and violent trouble which can hold up all co-operative peaceful effort to make constructive progress.

Shri Kamath : Has not the Home Minister helped the people to discard respect for traditional law ?

Shri Rajagopalachari : I do not complain. I am sorry; I always suffer from this defect; I use less words than necessary. What I meant was that we cannot command now any other force for preserving order. We cannot command the old traditions which prevailed before and which could keep order without showing itself; we cannot command physical force now. We have no focus of authority for preserving order. I was laying stress on the need for keeping the general temper of the people and their commonsense intact without being vitiated or allowed to deteriorate.

We require public order and peace so that we may make progress and take equal rank with other great self-governing nations within a reasonably brief period. I have no other object but to preserve the necessary condition for peaceful progress in desiring to leave a law behind me that should comprise the essential "Don'ts" for printed stuff. It was called a parting gift or a parting kick in sneer and criticism. But, let me say, I don't mind these criticisms or these sneers. It does not matter. What I want to do, I know. It is to leave a law that should comprise the essential, minimum "Don'ts" for printed stuff. If it is there, with courts to guard the canons of just and fair interpretation not only of the law, but of whatever is printed or complained about, a code of conduct for all sections of the Press of our country will grow out of it, I am certain.

What with the written Constitution and the judgments of the various High Court Judges and of the Supreme Court and the interpretations of lawyers who can advise, public men, writers and others, the present condition of law in this respect is, in my opinion, I respectfully say, truly chaotic. There are laws which have been declared, some of them *ultra vires*, some of them partly *ultra vires*

and partly *intra vires*. There are laws which, the Press takes for granted, are revoked and rendered null and void, but which lawyers can prove are still valid to a greater or lesser extent, and there are people ready to argue any point up to the limit of the Judges' forbearance, which again varies with each tribunal and each judge.

I do not say that this authority which courts exercise is undesirable or that the variation of interpretations is unsound or can ever be got rid of completely. But the Press law is more chaotic than most other departments of law, as it stands now, that is to say, before this Bill is adopted. The subject is of fundamental importance in democracy, as I was trying to explain. On the character of the daily issues from the presses in India—I believe every morning two million copies of various papers issue out and are read with avidity, perhaps each copy by about five or six men and women—on the character of these daily suggestions contained in these papers depend the thoughts and, therefore, the actions and the behaviour of the people. So I feel convinced that a reasonable Press ethic with sanction behind it is absolutely necessary. The present chaotic condition is not good for anybody.

I, therefore, do not think the substance of Shri Deshbandhu Gupta's arguments was sound. But the manner of it was excellent and the great Union of Editors cannot say he has not discharged his duty by them as their Union President. But the arguments advanced by him with apparent cogency have been most ably and effectively answered in, among others, two most remarkable speeches delivered in the course of this debate. I hope I shall not be considered impertinent if I express my personal appreciation of the fine contributions made by Shri Braja Kishore Prasad Sinha and Khwaja Inait Ullah in this debate. The former most effectively pricked the bubble of the oft-repeated argument that in the civilized countries of the West there are no such laws as we propose to have. He effectively quoted from no less an authority than Dicey and showed how ill-informed people are of the actual laws of England in this respect when they put forward this argument. England has great capacity for silence and for restraint. England has great capacity for orderly progress; and they do not talk about their laws and so we do not even know what their laws are. Also England's old laws and established laws are written in English and not in legal jargon, and they are all concise. But we go into A to B and right on to Z, even to provide that a man should not make a nuisance of himself anywhere; and we

think our laws are prodigious and we think in England there are no restraints. A word is enough for the wise. A brief explanation in their Statutes to the effect that restraints should be observed, is enough for them. There are quite a few laws in England as was quoted by Shri Braja Kishore Prasad Sinha from this book. He has quoted enough and explained enough to show that not only the substance of our proposed law, but almost every phrase and word in which the restrictions are expressed in it are founded on the British law. I have already acquainted the House on another occasion, that is, when the constitutional amendments were debated, with the Press Law of Sweden which is not an uncivilized or authoritarian country.

Khwaja Inait Ullah in his fine Hindustani speech proved to the hilt the fallacious character of every one of the objections so vociferously raised against the provisions of the Bill. He argued with such sincerity of conviction and clarity of expression and unimpeachable commonsense that I turned to my friends representing the Press, to see how they received his points. I could see that they tried to cover their defeat by smiles and a good-humoured expression of face. So far good. I do not complain.

Members of Parliament are entrusted with the responsibility of making laws for the Republic on considerations of public welfare and public-security. No professional or double allegiance should be allowed to cloud our judgment or effect our attitude. We may represent facts on behalf of any particular interest, but our judgment and our vote must be independent. We may be editors, Presidents or Secretaries of trade unions or Editors' Conferences or of Journalists' Associations, or members of Chambers of Commerce, etc., but the allegiance of our conscience must be to Parliament and we are Members of Parliament above everything else. That should be our biggest if not our sole loyalty.

Shri Kamath : Not even the party.

Shri Rajagopalachari : Yes, not even the party, I fully admit that, as in practice Members of this Parliament have shown in the daily time-table of the House.

Well, it is made out as an objection to this Bill that to enact a separate law for dealing with the abuse of the freedom of expression by those responsible for the publication of newspapers, a law different from the ordinary penal law dealing with individual offenders, would be discrimination. This is a most specious argument. Non-discrimination is often pleaded for in order to maintain one's own superior position and power. The argument leads

just to the opposite of what the law of non-discrimination is conceived for. The first point to be remembered in this connection is that the weapon of the Press is very different from the instruments available to ordinary individuals. The spread of the harm is wider and the effect is far greater and most rapid. Expression through the newspapers is as different from individual freedom of expression as a rifle is different from a stick or as a motor-car is different from bullock-cart. The laws relating to ordinary conveyances are not enough to deal with laws relating to railway trains and motor-cars and aeroplanes. They would not be suitable and they would not be adequate. If bicycles and motor-cars have come to stay, we must provide for their registration and for the regulation of their working and not be content with the doctrinaire attitude and simple general rules related to all conveyances without discrimination of whether it crawls at 3 miles per hour or flies at 40 miles an hour.

An Hon. Member : 400 miles an hour.

Shri Rajagopalachari : I mean a motor-car and not an aeroplane. If it is an aeroplane, of course it will be at about 200 miles per hour.

Again, there is the distinction between the elements that go to make up an offence on the part of an individual and the circumstances under which corporations and persons responsible for a daily newspaper commit a breach and the nature of such offences. A certain amount of vicarious responsibility has to be undertaken by those responsible for machine-made expressions of views, who have to maintain various degrees of anonymity on behalf of their contributors and writers, which is considered almost as sacred as the Code of Manu or the Vedas or the Upanishads. This distinction is not for the first time drawn by me, but it is a well-accepted doctrine in modern legislation. The ordinary law is inadequate and inapplicable to such cases.

It is true that prosecutions for obscenity or libel can be undertaken in the ordinary way, but it is well known that they are most ineffective and they will only serve to heighten and expand the injury already committed. In fact, such newspapers as thrive on scurrility desire the advertisement that is secured by individual prosecution and protracted trial in court. It is necessary that although individuals are also concerned, the public interest should be safeguarded by the State proceeding against the newspaper or journal as such, apart from the prosecution of

the man who with deliberate intent, was guilty of obscenity or scurrility.

It is said that we might have laws for emergencies, but we need not put a Bill of this kind on the Statute Book as a permanent measure. We are living in fast-moving times. No law placed on the Statute Book need be considered as permanent. We have to amend and change the laws from time to time, even though we do not call them emergency laws. There is such a thing as emergency but there is also such a thing as the peculiar condition of our times and of our country which call for special care. We have the strongest feelings of caste and religious classification. We have illiteracy at a high percentage. We are generally poor and liable to all the temptations of poverty alongside of an exotic culture demanding high scale of expenditure. We have on top of it adult suffrage and a Republican Government where no particular man has high authority or power. Our country is not like other countries either in the east or in the west. We belong neither to the West nor to the East. Our laws must be of our own pattern.

It is said that there is a general impression abroad in the world that the Government of India is desiring to put restriction on the Press, that our credit abroad is injured by this impression and therefore that we should refrain from passing this Bill. I respectfully submit that the agitation of those responsible for the Press of India was the cause of such wrong impressions as prevailed in respect of the attitude of the Government of India towards the Press. Every one is liable to fall into this trap and I do not say it only about the Press. A particular interest that takes up an agitation is tempted to exaggerate and overdo the agitation and when this happens to be the great channel for information abroad, the agitation misleads the rest of the world who judge things on insufficient data and without time for enquiry. If the landholders of India started an agitation they would have to depend much on the Press for carrying on that agitation but if the Press itself takes up an agitation, the weapon is its own and that is why the injury is greater. I know that as a result of the propaganda done by the newspaper unions of India wrong impression was created, but I think that when people abroad saw the actual amendments made in the Constitution over which the agitation had been started, the wrong impression was effectively removed and no one is now deceived to think that the Press in India is less free than any other Press in the world.

Above all no amount of propaganda can alter facts. Fifty years ago I was taught the lesson not to depend on propaganda or waste money on propaganda. Facts will be the best propaganda. (*Shri Kamath*: How many years ago?) My political history dates beyond the times of Hon. Members here.

The world abroad sees what things are written, what criticisms are made and are freely permitted in India. They can judge and see that the Press in India is freer than ever it was before and freer than most Presses in the world, as free as the Press in England is. I do not believe (I read English papers, sometimes) that any criticism appearing in the section of the British Press that is opposed to the present administration in that country and writes in a free and frank style (different from the English that we know) goes to the length to which in India some papers take their criticisms of the administration and personalities in India. This is about papers conducted in the English language. As for the language papers as they are now called, I claim that no Press in the world enjoys the licence that these papers enjoy. Sooner or later the world will understand that in democratic India the Press is perfectly free as regards expression of news and views and the language in which criticism is expressed is in no manner deterred by considerations even of respect for authority, not to speak of repression.

All penal and quasi-penal regulations are for exceptional people. Mr. Goenka made in his very fine speech comments and arguments as if this Bill was directed against the Press as a whole. That is not correct. It is not the intention; it cannot be the effect of the Bill if passed into law. The ordinary average is good. The bad is an exception and it is for that exception that laws are made in any country, in any field.

It is argued that the measure that I propose would give a bad impression to people about the Press in India. It would appear, they say, that most newspapers today were committing the breaches complained of and provided for in clause 3. No one used to the study of laws in any country draws such foolish conclusion. I have made it quite clear that this clause and the whole of this Bill are intended for the few who may commit the serious breaches referred to. I stated at the very outset that I do not expect even in the few cases these clauses will be successfully applied. Hon. Members know that any executive government which had its own authority easily exercises it, but when the executive government has to go as a complainant

to a court and submit to the decisions, not of a court but of the terrible jury which I am going to put into the jury box in any one of these cases, and thereafter the high court, which is not always too kind to the executive government, will have the power to review, no executive government will pass an order for prosecution without considering it a hundred times whether they can do it with profit or it may result in any disadvantage to them. I have indeed claimed that the Bill may probably remain unapplied to any case. I do want it, however, to scare away bad people, the exceptional people who want to do things I have described there, not the people here who think that they may thoughtlessly, recklessly or in an absent-minded mood, may commit such a breach. It is not intended for them but for those who have it in their minds to do it and who will be afraid of doing it, thinking that I am a bad man or my successor is a bad man and would put the law into action.

The value of a penal law is in its non-application, not in its constant use. The law should remain there to serve as a deterrent and to help the better section of the Press to develop right standards of expression to prevail in the profession. In the Penal Code we have provided for punishing people who commit all kinds of offences such as the practice of slavery, unnatural offences and the like. Is it a criticism to say that the Indian Penal Code will create the impression abroad that slavery is prevalent here or that unnatural offences are very common? It is not a correct argument. Even in the British law there are horrible offences prescribed and punishments set out. Nobody need imagine that reading the Indian Penal Code people in the world will think that such things largely prevail. Yet these offences have to be mentioned and provided against.

The ethic of any particular profession depends on the individuals practising the profession. Ultimately it is this natural development of standards that we have to depend upon. This is a common argument for both sides. So we have to accept the argument that ultimately we have to depend on the natural development of standards in any particular profession but the natural development is assisted by the penal law, because there are black sheep in every profession, including even the cabinet, as was so kindly and nicely put by Mr. Goenka in a moment of forgetfulness of his usual style. This is not the case only in this field. It is the case in every department of life. It is not the case only in this field where the natural development has to be assisted by the penal law. Delhi or

Bombay is becoming cleaner not on account of the nuisance laws as such but by reason of the higher standards in the minds of the people themselves; but the penal law is necessary so that it may help the raising of the standard.

Look at our Constitution. We have provided even for the impeachment of the President, we have provided for the impeachment of the Speaker in the Constitution. We have done it cold-bloodedly and without any nervousness in the Constituent Assembly. We have provided for disqualification of Members and candidates to Parliament on the grounds of idiocy and insolvency and the like. Does it disfigure our statute-book in the sense as was argued in the case of this poor Press Bill? We have passed the Constitution in its entirety, with all its blackspots, if you may so call them. They are not blackspots. Nobody need be scared by such provisions for exceptional cases and imagine that our credit abroad or our conscience inside will be injured thereby.

The fact of the matter is that we are obsessed by the memories of a previous Government. That is the thing I have to fight against. I may make it clear before I say anything else that no fair comment or *bona fide* criticism of the system of Government or of the measures of Government or of the administration or even of the laws passed or for that matter, even of the Constitution would come within the terms of any of the items of objectionable matter dealt with in this Bill. Interference was a word which was much handled. Interference with the working of a factory, for instance, is not the same thing as criticising the administration of the factory. That example can be applied to every other case. Interference is very different from criticism. In the same manner interference with the administration of law or with the maintenance of law and order is not the same thing as criticising the officers or the methods or the procedure or the practice concerned. People were complaining that these words are not in the legal dictionaries. So much the better. These words are in the ordinary dictionaries which every man can read; it is only special terms that are put down in the legal dictionaries.

Interference is a common word. Also, philosophers and grammarians and literary men will understand easily when I say that no definition is really possible unless you go down to certain well-known and well-understood words. Even if I define interference, if I define violence or sabotage, I should finally come down to certain words in the ordinary dictionary and depend on

that dictionary and not on a legal dictionary. It is a vicious circle in the use of legal language, but there are certain words which are well-understood and which should be understood; if there is no legal definition or interpretation of the word then the definition in the ordinary dictionary is accepted by the interpreting tribunal. Interference is a well-understood word. It is something physically done to stop or injure the machine or the organization. It is not mere criticism; it is not thought, it is not criticism or comment—it is something physically done to stop or injure the machine or the organization. It is not our fault if we misuse words. If any Hon. Member says, "Why do you interfere with me?" when he is criticised, it is only proof of his bad temper—it cannot alter the meaning of the word interference. You can freely criticise the distribution of food or of services but you do not interfere with the administration of laws regulating the supply and distribution of food or of utility services by any amount of criticism levelled against it with the object of improving it or changing it. Interference is a definite word with a well-known meaning. I can criticise the railway administration, but I interfere with that administration if I do something more than criticism, for example, if I arrange for the failure of a semaphore or a signal or cause a derailment by removing a rail. My Hon. friend, Khwaja Inait Ullah made the position very clear in his speech in this respect. He dealt with interference and the mistaken criticism of the clause with reference to that word.

An Hon. Member : The microphone has failed.

Dr. S. P. Mookerjee : Interfering with your speech. (Laughter).

Shri Rajagopalachari : If he did it purposely he would be an offender. (Laughter).

Pandit Thakur Das Bhargava : Purpose and knowledge and intention are nowhere mentioned in this clause.

Shri Rajagopalachari : Purposely. I will deal with it either here or in the Select Committee. When we are punishing a man we must examine the intention and . . . whatever the legal term may be. When we examine writings and prosecute the institution which produces that writing, the meaning of the word and the tendency of the word alone must guide us, not the intention. I may be a very well-intentioned man but if I drew a picture of a man going and stabbing Swami Shraddanandji, I cannot say I am well-intentioned—the picture will be the matter that will be judged : its tendency or its effect will have to be taken into account.

But let it be taken once for all that any *bona fide* adverse criticism however much it may differ from the prevailing governmental view cannot amount to interference or anything else put down in clause 3. I am not offering this as an assurance. I accept the rule that no assurance given on the floor of the House will govern a court: it is the law that governs. What I say is, under the law and according to the terminology of the law that I propose should finally be passed. My intention in furthering this Bill is that no adverse criticism, provided it is *bona fide*, however much it may differ from the prevailing governmental view, can amount to interference or anything else put down in clause 3. And you may take this intention of mine not as an assurance but as a basis and work out any change in the language that may be desired.

Again, violence is a well-understood word. It is the unlawful exercise of physical force against any person or intimidation by exhibition of such unlawful physical force. Sabotage is also well-understood. With due deference to those who did not think so and so said so, sabotage is very well-understood, and I give the meaning here: it is the doing of damage to plant or stocks, bridges or roads and the like with the intent to destroy or injuriously to affect the utility of the plant or the service or the means of communication—not criticism. Sometimes we say, “You have sabotaged my proposal,” but that is only a figure of speech, it is not the word sabotage used in its ordinary sense. When we use well-known words as they are understood in the language standardized in dictionaries, we do not require further definition or qualification. Take Lord Macaulay’s draft of the Indian Penal Code. It is a remarkable production; I wish all of us, Parliament Members as well as draftsmen, kept this for copy as regards language. There you will find assault defined, hurt defined, and defined in a most metaphysical way because there he was at the bottom of things, he was so to say at the rock bottom of terminology and he had to define what force was and he had to give the definitions of other words. But through well-known words he has defined in the Penal Code what causing hurt would be. When we use well-known words, therefore, we use them in the sense standardized in dictionaries and we do not require further clarification or definition. We have to define and explain special terms of art; but words like ‘interference’, ‘violence’ or ‘sabotage’ can neither be extended beyond the normal meaning of those words nor fail to be understood properly. And all this process—and here is the important point

which perhaps may have to be repeated by me over and over again in different contexts—all this process of understanding and judging whether there is a breach or not and what was intended by the law to be protected are all left to the impartial decision of a judge who is used to and is well versed in the determination of complicated judicial issues in a fair and impartial manner and the proposal is further that such judges should be assisted by persons familiar with the language and the particular standards prevailing in the newspaper world. I could not go further. I am not as bad at all as Shri Mathura Prasad Mishra thought I was. I thought honestly to make as liberal a measure as possible and I could not go beyond this. When I have gone to the Judge and the jury of Pressmen and those who know the language of the Press as it prevails at the time when the prosecution takes place, I cannot go beyond that unless you give me a figurative dynamite to blast the rock and get some water out of it as it is necessary to do in my native district.

The word 'classes' in sub-clause (vi) of clause 3 has frightened some people. The fright was natural. Section 153A of the Indian Penal Code was enacted in 1898, fifty three years ago. 'Feelings of enmity or hatred between different classes of Her Majesty's subjects' were the words in this Section. Many courts have examined and applied the words used in this Section. They have found no difficulty in not punishing the just and in punishing the real wrong-doers in this respect. The Section has been well understood and interpreted by courts all these years. I have copied in this Bill the language of 153A exactly as it stands. Any change of language now after over fifty years would produce more doubt and confusion than any advantage. There is always an advantage in using words which have stayed with us for a long time, especially legal words interpreted by courts all this half century.

One Hon. Member, Sardar Man,—I find he is not here—commented on the fact that whereas in that Section the words are—

“Promotes or attempts to promote feelings of enmity or hatred between different classes of persons in India,”

I have in this Bill said :

“Tends to promote etc.”

Instead of 'attempts' I have used the words 'tend to promote.'

The 1931 Act which is sought to be repealed by this Bill says :

“Tend directly or indirectly to promote feelings of enmity or hatred”.

I have omitted ‘directly or indirectly’ and used only ‘tend’.

Shri Naziruddin Ahmed : It is more dangerous.

Shri Rajagopalachari : No, Sir, unless you have a bee in your bonnet or an obsession in your brain. There is no more danger.

I do not want the word ‘indirectly’.

Pandit Maitra (West Bengal) : There is obsession on either side.

Shri Rajagopalachari : Very well, you have made a good retort, I admit, but a very simple retort. Like ping-pong the ball goes up and down, but please follow me.

I do not want the word ‘indirectly’ to be in the clause because I am convinced in my legal conscience that the word ‘indirectly’ does serve to enlarge the ambit of the offence unnecessarily. Hon. friends should remember that if you put an adjective, you create room for doubt. If you say ‘tend directly or indirectly’ you have let the door open for indirect tendencies. So I remove both ‘directly’ and ‘indirectly’. I have put it as ‘tend’.

Shri Ramalingam Chettiar (Madras) : ‘Attempt’ is defined whereas ‘tend’ is not.

Shri Rajagopalachari : I know that ‘attempt’ is defined in law. My next sentence was that. When we deal with the effect of writings and written representations, in my opinion and according to my knowledge of the English language the word ‘tend’ is more appropriate than the word ‘attempt’. The word ‘attempt’ can only apply to physical acts. The word ‘attempt’ does not appropriately apply when we deal with the meaning of written things and the effect of written things. That is why I have used the word ‘tend’. Just put the word ‘attempt’ in the clause referred to and then see.—Saying.

“Words or other written representations which attempt to promote.”

would be altogether wrong. At least it jars on me with my knowledge of the language. ‘Tend’ is necessary if you deal with words, but you may modify the word or you might even suggest some other words. For instance, my extremely vigilant and helpful friend Mr. Kamath said, “Why not say ‘calculated to’?” I admired the suggestion, and I have taken note of it for further study and examination, but the word ‘attempt’ would be altogether out of place. That is the reason for the difference observed by Sardar

Man and nothing else secret or wicked on the part of the Home Minister.

Mr. Deputy Speaker : 'Tend' is in the 1931 Act.

Shri Rajagopalachari : Yes, but the 1931 Act has to be repealed and they want something better, so I have removed the words 'directly or indirectly' and kept 'tend'. 'Tend' means 'having a tendency to'. I remember a passage from a book of jurisprudence I read when I was only seventeen years' old. I think I understood it rightly enough at that age. I read in that book that when dealing with contracts the older jurisprudence said, "What is the offer? What is the acceptance? That is a contract", but the other book of jurisprudence that I read, which was a more up-to-date book at the time said, 'No'. It does not depend upon that. The law does not care for what was said.

The law wants what was expected by what you said. What is the impression you created in the mind of the other person when you said something, and if he accepted it, he has accepted that and that is the contract. Here, we are dealing with the effect of words used and we cannot find a better word than 'calculated to' or 'having a tendency to'. Because the British Government was applying the word 'tend' in a particular way, we should not imagine that the British language had been spoiled on that account. The word 'tendency' has a very definite meaning and that could very well be understood by any judge. The tendency is the property of the language and not of executive authority and I would not be afraid of the word 'tend'. Whatever may be the law made against me, for instance, 'tend' has a definite meaning.

Pandit Maitra : It has acquired a judicial connotation also.

Shri Rajagopalachari : That was not a proper connotation. We have different judges now.

Very lengthy criticisms were made on the subject matter of clause 3, reading the sub-clauses one by one. All such criticisms in my humble opinion as were advanced were more essays on the imperfections of the English language, that is, as we understood it, rather than any substantial or convincing points made against the substance of the provisions contained therein. Sub-clause (i) to (iv) of clause 3 do not call for any explanation. Sub-clause (v) of clause 3 is what is prohibited—Hon. Members will look up the Penal Code—in Section 189 which was written a 100 years ago. The clause is word for word in the same language as Section 189. That is to say, real interference with public service. So also item (vii) is word for word

Section 503 of the Indian Penal Code, what is well known as 'criminal intimidation'.

Pandit Maitra : They have all acquired sanctity now.

Shri Rajagopalachari : Most certainly. I do not think I could write a clearer, more precise or a juster definition of 'criminal intimidation' than is contained in Section 503. If necessary, I shall call Dr. Mookerjee in evidence on my behalf. I cannot write a better definition of interference with the public authority which is criminal than what is written in old Section 189. I would ask Dr. Mookerjee to improve Macaulay's language and make it juster or more precise. It is impossible, I say. If an individual can be punished for an offence so described in 189 or 503, and that wording is fair and appropriate. I would ask how it could be inappropriate for a newspaper that attempts to commit the same offence through the printed word? We cannot have one definition for the common individual and another for the press.

Shri Goenka : Let it be applied to all the clauses.

Shri Rajagopalachari : The same law cannot apply to all clauses as it would produce injustice. Discrimination is a definite act; it is not merely a formula, dogma or creed. If I discriminate and if I commit the very offence that I do not wish to commit, namely, to make discrimination; if, for instance, I said that only a certain class of school boys should be admitted in a college, only those who have secured certain marks, then I would be making a discrimination against the poor boys who have not the family life and the tradition or the association that the others enjoy. My Madras friends should know at once as soon as I refer to it. My friend knows it and he is smiling. If an individual can be punished for an offence so described and the wording for that purpose is fair and appropriate then I respectfully claim that there is nothing wrong in the definition of the offence so far as the Press is concerned. The degree may be different; the punishment may be different; everything else may be different; but the description of the offence cannot be improved. The language is the same, I assure Hon. Members, word for word, not excluding even unimportant words. I have no doubt the Select Committee to which this Bill may be referred will examine the clause with great care and I shall have an opportunity there either to defend the provisions or to accept modifications which may be shown to be necessary or desirable.

After all—again I repeat—the judge will interpret and weigh the merits of the cases. The execution of the law is not left in the hands of the executive. Let not repetition

lessen the value of that provision. I have not followed the process of bargaining when introducing a Bill, keeping up my sleeves certain further concessions, and giving them after the harassment I may have in the Select Committee. I have placed all my cards on the table. The Bill is there. Let Hon. Members not yield to the cheap temptation of considering the provisions of a judicial tribunal and judicial trial, and the provisions for appeal and jury, unimportant simply because I myself have offered them initially.

For my part, even if the Bill is thrown out, I hope that this proposal I have made is a valuable contribution to the progress of law in this country. I do hope that nothing will be valued at less than it is simply because of obsessions in the mind of particular interests, or on account of the fact that I myself have offered it and there is no new concession to be wrung out of me.

The execution of the law is not left in the hands of the Executive. This was the case under previous laws and is the great obsession which some Hon. Members are not able to get over. When this is pointed out an attempt is made to cast doubts on the impartiality of judges. What then is to be our anchor? Whom are we finally to trust and depend on? Are we to trust no one in the world but a free and unrestrained Press?

Not only is a judicial tribunal and full judicial procedure provided for the trial of every complaint filed on behalf of the Government against a newspaper, but a company of newspapermen sit down to give their verdict, mostly their own brothers in the profession, to assist the judge who is bound to accept such verdict unless the judge refers the case to the High Court and the latter takes a different view. If we do not trust the High Court, if we do not trust any judicial tribunal, if we do not trust our own.

Shri Naziruddin Ahmed : There is no question of not trusting the judges. The law will compel them to punish the innocent.

Shri Rajagopalachari : When we are making a law the question of trust does not arise. When we are discussing the provisions of law by which such and such people are asked to decide whether the law is to be accepted or not depends on the elementary question whether we trust the tribunals to which the law says we should go. I do not think my Hon'ble friend, Mr. Naziruddin Ahmed, has raised any substantial doubt in my mind by reason of his interruption.

Every issue is to be judicially tried and decided and the Government can only make a complaint to the Court to

initiate the proceeding. Every decision of the Court is subject to appeal to the High Court. Let us not break our anchor in our enthusiasm for opposing a Bill. The anchor in democracy, where all questions have to be decided finally by a tribunal, is the High Court. Let us not throw the High Court into a mere argument against a Bill. We must stand by them and when any law provides for appeal to the High Court, there should be no discussion in that matter. We can point out that such and such procedure also should be followed. That will certainly be looked into.

As I said, it is not merely for making a caustic observation that I say this but because I wish to offer a substantial argument. If I cannot trust the judge, if I cannot trust the jury, if I cannot trust the High Court, I say positively that I cannot trust your free Press. I maintain that my point is quite sound, but let us discuss it later on. If they want an appeal from the High Court, if they want a jury to assist the High Court also, if they want any other provision, let us examine it.

It was said by the President of the All India Newspapers Editors' Conference in his speech that he would not be sorry if the special jury provision were dropped. And this was repeated in a different way by the other sturdy champion of the Newspaper Editors' Conference, Shri Ramnath Goenka who said "I do not like this jury provision". Shri Ramnath Goenka always indulges in a frank style of language and he straightforwardly said, "I do not like this provision". Shri Deshbandhu Gupta is a Parliamentarian and he said, "We shall not be sorry if the special jury provision is dropped". All this confirms me in my doubt that gentlemen belonging to the profession are not very keen on sitting in judgment over their own brothers. They are perhaps afraid of their united front being broken. (*An Hon. Member* : That is your object). United fronts are good for certain purposes, but where we wish to improve and preserve standards of conduct one should have thought that the judgment of the brothers in one's profession would be prized very highly. It is the unwillingness, if not the incapacity, to restrain and reform and check erring members of the profession that causes apprehension in the Government's mind, for which this Bill is provided. Any one who dares to point out the errors of an erring brother in the profession and who insists on good conduct is made the target of attack, as Shri Deshbandhu Gupta knows very well. We have, I know, to pass through this stage; I admit we have to pass through all this. While passing through this stage I claim that the law must come

to the assistance of those who wish in their hearts to check those who fall below the standard.

Even a common peasant knows that he must put up a scare-crow, a mere piece of stick with a *kambli* round it, in order to preserve the crop that he has raised. He will have to keep a scare-crow there. The birds well know that it is not a man—I can think of the birds' minds too—but they are not quite sure that it is not a man and so there is some hesitation. Now that is the present law.

We have to pass through this stage, as I said. But the penal law is a necessary auxiliary to those who in their heart of hearts really wish to check this evil.

Sir, in this connection let me read a passage that has been brought to my notice. The All India Newspapers Editors' Conference met in New Delhi on March 13 and 14 under the chairmanship of Lala Deshbandhu Gupta, and a resolution was passed condemning the tendency—I am sorry he has used the word 'tendency'—in a section of the Press to persist—here are the quotation marks: "to persist in deliberately publishing matter which is false, malicious and indecent and which contravenes accepted standards of presentation of news and comments." The actual resolution is this. It is short and I shall read it :

"The Standing Committee, without in any way seeking to qualify the freedom that the Press, rightly claims for publication of news and comments in public interest, regrets and condemns the degrading tendency in a small section of the Press to persist in deliberately publishing matter which is false, malicious and indecent and which contravenes accepted standards of presentation of news and comments."

Now let me explain why I quote this. This shows that the hearts of the Press bosses are sound; at the same time their brains are also quite alert; they know what is going on; they see the tendency, the deliberate mischief that is being done and the growing tendency and the like, and after seeing these, they have expressed it. My Hon. friend, Pandit Kunzru asked me: what is the evidence that scurrilous things are being written? Have you made a list of them, printed them, or made a typed copy of them and put it before the House? That was the old style but now the peoples' representatives know what is going on in the country and there is no question of evidence being multiplied. If I do it they will print it as a book and distribute it. Hon. Members here know the amount of scurrility and what is described in the resolution of the Standing Committee of the All India Newspapers

Editors' Conference. They know what is going on and they have taken notice of it recently. (Interruption).

I am anticipating the reply. It is an easy argument: "Well, we are taking notice of these things. Why do you bring the law?" I say because you are not able to check it. I have been seeing some papers to which reference was made by the All India Newspapers Editors' Conference Standing Committee and I have seen more scurrility after it, more vulgarity plus an attack on the members of the Standing Committee itself. Therefore, I say, that law is necessary.

The law is behind the screen; it may not exhibit its ugly face before you but unless the law is behind somewhere, no organization, not even the Standing Committee of the All India Newspapers Editors' Conference would be able to check their black sheep because their interests are contrary, are different from the interests of the better section of the Press and therefore, there is some need for law and I am providing this ugly scare-crow, an empty scare-crow, if I may say so, and it will serve the All India Newspapers Editors' Conference if only they will co-operate. But if they have made up their minds not to co-operate for some time—I do not think the anger will be there all the time, we forget most things—and if they persist for some time, I make an appeal to them, but if they want to keep the agitation, I may say it won't serve any purpose. The united front may be maintained but later on, I am sure, this law will be useful. I have known of such cases.

When recently the Sarda Bill was proposed, people thought that it would be a dead letter or there will be a revolution and so on. Now one hardly knows which is forward and which is behind. The age given in the Sarda Act is far behind the actuality that is prevailing in the country. The Sarda Act has not been able to overtake the actual age at which girls marry. Therefore, a law may be very much disliked in the beginning but by and by the law will serve its useful purpose; it is a good householder who does not poke his nose into affairs unnecessarily but is behind those who want to take help from him. Any one who dares to point out the evil is, as I said made the target of attack. The Bill may not be liked by Shri Deshbandhu Gupta or he may doubt the value of the jury, Shri Goenka really abhors the jury for some reason or another. I submit it is not right to non-co-operate in that way.

I think the public has a right to demand the assistance of the members of a particular profession in maintaining the ethical code suitable for that profession. Lawyers cannot

refuse to sit in judgement over erring lawyers. In their bar councils from time to time they have passed very stringent remarks and penalized and on their recommendation men have been debarred from practice. Lawyers cannot refuse to sit in judgment over erring lawyers. Parliament Members have not refused to sit in judgment over erring Parliament Members. The jury that I have proposed in this Bill follows this principle which is both right and practicable.

A united front is not always a safe thing to maintain.

Shri Deshbandhu Gupta : May I interrupt the Hon. Minister and remind him of the fact that during the last ten years, the Press has acquitted itself very creditably in the Press Advisory Committees in sitting in judgment on their brethren and even convicting them ?

Shri Rajagopalachari : I accept the claim. But, in dealing with offences of the type that I have put down in clause 3, they are not really their brothers. You cannot control such people without the assistance of law. You cannot control criminal mentalities. It is that, that is intended to be aimed at in clause 3. You do require a law. I respectfully submit that your own ethical authority can control only those who err by mistake. You cannot control, I claim, people who err deliberately. This clause is intended for such people.

Shri Deshbandhu Gupta : For that, the remedy is public opinion.

Shri Rajagopalachari : The remedy is public opinion. But, we must help it to grow. The child must grow. Public opinion should grow and it should be nurtured, not only by the mother who is fond and loving but also by a father who is sometimes harsh. As I said, I will answer questions at the end.

Much has been said about the absence of a maximum limit in the Bill for a demand for security. They have seized an obvious lacuna or omission. It is not a careless omission; nor is it an aimless omission. I have omitted the maximum there for a reason. It may be accepted or it may not be accepted in the Select Committee. Much has been made of it even in the general discussion. It may be clearly understood before I go to say anything about it that under clauses 4 and 7, the Court decides the amount of security that is to be given. It does not matter what amount is mentioned by the complainant Government. It is the Court that decides the amount of security. In the old law, it was an executive fiat before publication, and the printer or the publisher had to deposit the amount

so demanded. There was no objectionable matter for the court to enquire into or look into. It was a mere demand. The executive had the authority to impose it and any man who wanted to start a press or newspaper had to fetch that money before he started any professional work in that respect. Therefore, it is that the Executive put down a maximum limit. Here, the objectionable matter is before the court before any security can be talked about. The merits of the thing are discussed in a court. Then the question of security arises. If security is finally decided upon to be demanded, then, the court has the power to fix it. Therefore, we do not propose to put in a maximum or minimum.

Shri Deshbandhu Gupta : If I may interrupt the Hon. Minister.

Shri Rajagopalachari : We will discuss it later.

Shri Deshbandhu Gupta : It was at the second stage that the maximum was prescribed. The second stage was equal to the first stage here.

Shri Rajagopalachari : May be; I do not agree. Having committed one fault, they might commit a second fault when it is not necessary. But, I do not propose to follow the structure of the old law when I do not agree with it. I have explained the reason why I have omitted it. If it is desired that a maximum should be indicated there, thereby indicating the order of the amount that could be demanded, it may be done. For instance if I do not say anything, the court may punish the executive and bring it to ridicule by putting it down, "Please deposit Rs. 100". If I put down a maximum in the law as Rs. 20,000 they will think in terms of thousands. I have no objection to put in a maximum.

Hence the Government fixed a maximum limit but now we have taken away the power from the executive and put the executive in the position only of a suiter before the court. Is there any maximum as to the amount of fine, in the Penal Code, except in a few cases? In most cases, there is no limit.

It does not mean that there is no limit in fact.

Shri Naziruddin Ahmed : In most cases, there are limits.

Shri Rajagopalachari : In the Bill as I have drafted, the executive states in the complaint the amount that it considers fair and reasonable and leaves it to the court to decide when it finds the respondent guilty of the breach. Under these circumstances, the fixing of a maximum or a minimum has no meaning. Such limits are relevant when power is arbitrary. As to why it is provided that the

Government should state the amount they propose in the complaint will be gone into in detail in the Select Committee. It is to ensure, I may mention here, against prejudice in the judicial procedure, which I shall explain if necessary in the Select Committee. There will be grave prejudice to the accused person or newspaper if they begin discussing the amount of security in the course of the trial. Or there will have to be two trials; one up to the finding and then a subsequent enquiry as to the amount. But, if the amount is mentioned beforehand, it could be discussed impartially without bias. For the present, it would be enough for me to point out that if an incontinent demand is made by the Government, it would rather go against them in the trial, as I have provided for in this Bill. It is not in the interest of Government to make any exorbitant demand; nor is the court bound to accept such a demand. Before the court decides the main issue it would be difficult for the court to discuss the amount of the security. Hence this provision.

“Why has not Section 144 been abolished?” has been asked by some members. It has been stated that this is a very bad Section. Section 144 of the Criminal Procedure Code has served more than anything else in this country to preserve order. Government would be most difficult in this country without that Section, unless, indeed, we tacitly authorize Government to use force without a magisterial order. If we decided to go without Section 144 of the Criminal Procedure Code, we would only be paving the way for Fascism, or, for chaos and for domination by rowdy sections in every area, who will carve out authority for themselves. This Section, I would say, has served to preserve peace and order in our country at the cheapest cost, both in money and in injury to person and property. Here too the occasional abuse of this Section in former times has become an obsession with our critics.

Shri Deshbandhu Gupta : The demand was about its application to the Press and not for the abolition of the Section as such.

That was the recommendation of the Press Law Committee.

Shri Rajagopalachari : I will come to it. I shall offer all the recommendations of the Press Laws Enquiry Committee if the Press will accept them. As I said, occasional abuse of this Section in former times has become an obsession with our critics, But this abuse cannot happen under the present Bill or under the present authority. That is impossible now. The matter can come to the High Court.

There is provision here for putting up a complaint to the Judge.

Reference is made to the proposed Press Commission. The Press Commission referred to by the Prime Minister was intended for certain purposes which have nothing to do with the matter of this Bill. The aims and objects of such a Commission have been explained by the Prime Minister to the people concerned. They are well known to journalists and proprietors of presses and newspapers. Some of them like it very much, some of them do not dislike it, and some of them are not very keen about it. Government has not abandoned the idea, but it is a Commission that will take a year, if not more, to complete its task. It has to go round, take evidence and see things as to how newspapers are produced and managed and things of that kind and not much to do with the content of newspapers.

Some newspapers have in their criticism of this Bill gone so far as to demand that the provisions contained in the Press and Registration of Books Act of 1867 should be altered and that no newspaper need be asked to be registered. Why should any one who wishes to start a newspaper or periodical be asked to go to the Magistrate and declare the place of printing, the name of the publisher, before him? It is considered that registration is an indignity and that people should be free to start newspapers without making any declaration.

Shri Goenka : The objection was with reference to the great delay that occurs due to

Shri Rajagopalachari : Well, that is not in the article in the *Hindu* that I read.

Shri Goenka : Delay of months takes place and the paper cannot be started.

Shri Rajagopalachari : We accept delay even in the matter of buying a pound of rice. We stand in queues. The question of delay is different. If that is the complaint, we can put it to the administration and whip it up. But I read in the columns of the *Hindu* a recommendation that registration itself is undignified and should be given up. Freedom of expression, we know, is the slogan. How can a man be asked to register himself, like taking the thumb-impression of a prisoner? Well, this is a strange demand in an age of statistics and registration. Cycles, motor-cars, buildings, births, deaths, marriages, everything in fact, should be registered from time to time. There is demand even for statements of property, income, occupations, etc. The growth of national life has been such that without such registration and without continual attention to statistics it

would be impossible to administer and work for the welfare of the people. We ought to know who is responsible for a newspaper. We ought to know where it is published. We cannot know just who is to be guilty of neglect, if any neglect has happened, unless this is gone through. So all this has to gone through. There is nothing whatsoever which can be deemed humiliating in such registration.

Protests against this Bill have been expressed by newspapers and journalists' unions. I may be excused if I describe this as a steam-roller affair. I am sorry the people engaged in the production of newspapers have made up their mind to maintain this agitation. The technique of united steam-rollered protest has become easy and familiar. Other interests too try this. But the Press has great advantages in this respect more than any other organized interest or profession.

Fear has been expressed that journalists will be dismissed by proprietors out of sheer fear of the law. I should like to know how many editors have been oppressed and how many journalists have been dismissed on account of the fear of governmental repression under the existing law of 1931 from the year 1947 to 1951. For the last four years I would like to have statistics . . .

Shri Goenka : Under that law the penalty was limited. . . .

Shri Rajagopalachari : I shall limit the penalty.

We have not heard of any important cases of such repression. If by an executive fiat a journalist had not been dismissed or oppressed or the editors did not feel frightened out of their wits, if by an executive fiat Rs. 20,000 could be demanded by someone who started a treadle machine or a scrap of a newspaper . . .

Shri Goenka : In the first instance only Rs. 1,000 and it may go up to Rs. 10,000.

Shri Rajagopalachari : People who want to earn a living by starting a treadle machine and a small newspaper in a locality have to find the money. Nobody was depressed or oppressed on account of that. I want facts from 1947-51 when we have been having a more stringent Act in operation. You do not know how stringent the new Bill is going to be to express your fear that people will be dismissed. So, it is again a steam-roller agitation and nothing else. We have not heard of any important case of such repression. We should not forget that the administration takes the character of the prevailing public opinion in a democracy such as we are under. No administration can afford, even if it wished, to oppress just

and good men. Under the present regime, we may commit the fault of not detecting various forms of crime and wrongdoers, as has been constantly expressed in the House. We may be guilty of neglect in pursuing evaders of taxes and evaders of law but it is absurd to think that the Government of India, whoever may be manning it under the Constitution, could oppress blameless editors and newspaper proprietors and afford to threaten them or suppress them unjustly. (I do not wish to put in words the other apprehension that I have in my mind: it is not necessary at this stage.)—I must ask young journalists not to let themselves imagine that proprietors will be in such a terror when this Bill is passed that they will not employ independent-minded journalists. Capitalist proprietors are not such terror-stricken and helpless people. Journalists too are in a position to lay down terms for offering their services. Big newspapers give very good returns—as was admitted by Mr. Goenka this morning: he said “not very bad returns”—and good salaries will not be grudged. As a matter of fact it is a seller’s market so far as journalists go.

Shri Santhanam : Top journalists only.

Shri Rajagopalachari : So the junior journalists have no fear about it. It is the top journalists that fear. This Bill need not be a cause for any apprehension on the part of decent journalists. I do not believe that any one of them wishes to write anything inciting people to violence or sabotage or to incite people to interfere with the administration of justice or the maintenance of law and order or to interfere with the distribution of food or essential services or to seduce any member of the forces or to intimidate any public servant in terms of section 189 or any other person in terms of section 503. There is no reason for decent journals to indulge in publishing such matter as would tend to any of these things.

There may be some few who would like to have a free hand in scurrility, or in promoting feelings of enmity or hatred or producing trouble, but surely this should not be encouraged. It should be a common ground. Khwaja Inait Ullah put the case very forcibly in this respect and he asked : “Can you not see the difference between conducting your campaign to improve the lot of workers or peasants and promoting enmity or hatred between classes ?” He asked : “Surely you should not forget so soon the teachings of Gandhiji who wanted that everything should be done including the abolition of zamindari or capitalism without creating enmity or hatred.” Did he not even say “I ask that you should work for a change of Government

and elimination of foreign rule without rousing enmity or hatred against the Britisher?" The distinction is very simple and clear and a court and jury and full judicial procedure stand between the accused person and the prosecution and against any wrong interpretation. We cannot relax the law in respect of 153A or the corresponding provision in this Bill without doing great damage to the future of our country.

Every newspaper has expressed its opinion and we have sheaves of editorials—I have before me—and a plethora of comments in this respect. Nothing therefore remains to be done by way of eliciting of public opinion. As I said, these criticisms can almost be said to be steam-rollered out. Nothing will be gained by further enquiry or debate. No Press Member can afford to change his opinion hereafter if any enquiry is made. Nothing will be gained by further enquiry. State Governments' views are definitely in favour of the Bill. Oppositions from Madras, U.P., Bengal, Madhya Pradesh Governments I have and they are rather angry at me: "No further concession is possible; you have done this without consulting us," that is their case.

We should pay and do pay the highest respect to objections and criticisms offered by any particular interest or profession concerned. Here the particular profession and interest connected with the Press is closely entangled with the organization of public opinion itself. This is the cause of considerable confusion. All the same I am prepared to attach the greatest importance to criticisms and opinions expressed, but this must be analysed and examined on their own merits. The mere multiplication of protests and widespread repetition of the same criticism should not mislead or frighten us. The automatic result of modern organizational technique is volume and not merit. Let us by all means analyse and examine any objection but do not confuse merits with the volume of repetition.

It has been argued over and over by Hon. Members who opposed the Bill that the concessions made in this Bill are not great concessions, that they are practically the same as what the courts have already declared to be necessary under the Constitution, and that I have no right to claim that I have been generous. But why should I claim to be generous? I do not want to make such a claim. All the provisions of the Bill should be examined by the test of justice and propriety. There is no question of generosity involved. We cannot concede away, I cannot concede away, nor can Parliament concede away, and make a gift of what properly belongs to the State. It may not

be considered great or big by critics, but in my opinion it is a most important change and a fundamental and all-comprehensive reform that I have introduced in this Bill, namely, that I have made judicial trial the condition precedent for every order that may be passed against any printer or publisher or editor. A fair judicial trial on the issue whether the paper has committed a breach such as is complained of was not there in the old law except when a forfeiture took place and an appeal thereafter lay before the High Court, and even then the examination of the merits of the case was confined to within narrow limits.

Shri Goenka : Not forfeiture, even the demand of security is a matter against which you can go to court.

Shri Rajagopalachari : The first security, is it? If I have made a mistake I shall correct myself. I am only speaking of the past. Now, the original court is a court of high standing and it has the right to go into every one of the issues involved including the amount of the penalty to be imposed. And there is an appeal to the High Court again on every one of those issues involved. I am prepared to defend this Bill on the basis of this single important general principle and if there is any lacuna which should be filled in this respect it will be done by me most cheerfully.

Shri Deshbandhuji went so far as to demand the abolition of 153A from the Penal Code, if I understood him rightly.

Shri Deshbandhu Gupta : It was only a recommendation.

Shri Rajagopalachari : So you do not take the responsibility for it.

Shri Deshbandhu Gupta : I do.

Shri Rajagopalachari : I consider that this is one of the most salutary provisions of the penal law and we should maintain it without relaxation. The circumstances of our country demand a vigilant care over the minds of the people in regard to communal feeling. The seat of crime and disorder ultimately is in the mind.

Shri Kamath : And the heart also.

Shri Rajagopalachari : What we see in the physical plane is only the consequence of what happens in the mind.

Shri Kamath : And not the heart?

Shri Rajagopalachari : The Gita says 'the mind.'

The mass of people that now read what is printed, be it leaflet or be it newspaper or book, is very large. I have seen a picture that directly led to the murder of Swami Shradhanand. Our people are not educated enough to

discriminate and escape the hypnotism of the repeated printed word. I am reminded of what I read in a novel of Robert Louis Stevenson, *The Wrong Box*. Mr. Joseph Finsbury is a character there. He says to his nephew : "It is extraordinary how little a man of intellectual interest requires to study or to think in this progressive age. The newspapers supply all the conclusions!" This was a satire but it is very true, more true now than in Robert Louis Stevenson's time. People easily form their opinions, without knowing it, on the basis of what they read in the newspapers and in printed literature. If permitted there are people who can create great public disasters by just printing and distributing what they wish. I know that in South India this thing is in running practice.

I am surprised that while we concede that libel should be prosecuted and that an individual's reputation should be protected, any people should claim that the State should go without such protection. This Bill only provides that the State could go to the court as a humble suitor and make a complaint when its interests are attacked through incitement to violence or through falsehood, and all that is claimed is a fair trial.

Shri Deshbandhuji argued that the provisions in clause 10 are a new fetter forged by me. In a particular Independence Number, a mischievous article crept in without his knowledge and one lakh of rupees he invested on it was lost by its being taken away by the Attorney-General. That was the graphic tragedy that was described in glowing terms. Clause 10 is not a new clause as he said it was. It has got out of place and therefore it may be thought to be new.

Shri Ramnath Goenka : It is not new.

Shri Rajagopalachari : Shri Ramnath Goenka has had more time to look into the matter. Clause 10 is not new. It is intended to deal not with a press or a newspaper but with any particularly objectionable matter printed on a particular occasion. The clause provides that the Government could stop the dissemination of such matter by seizing the copies printed. This is provided for in the laws of all countries as Shri Braja Kishore Prasad Sinha explained quoting authority and it was provided for in Section 19 of the Act of 1931. Whereas under Section 19 of the Act of 1931 the Government could do this by the exercise of its own discretion and there was no fuss about it, I have provided under clause 10 of this Bill—because it is an urgent matter and dissemination has to be stopped—that the Government should arm itself first with the highest legal opinion about

such objectionable matter and publish the ground of such an opinion when making use of this power. "Have I not exercised my mind in a just and conscientious way?" I would ask Hon. Members who are in a hurry to criticise me. The evil must be checked at once and the dissemination of such matter must be stopped, if it is to be of any use. This, therefore, is provided for. The Government is entitled to act at once but should act only if there is good legal ground for it and such legal opinion obtained from the highest authority, and they are prepared to publish and defend the grounds. It is open to the party affected by it to go to the High Court as in the case of every other forfeiture and prove to the Court that the grounds given by the Advocate-General or Attorney-General or the Chief Law Officer of any State where there is no Advocate-General were wrong and that the order should be reversed.

Shri Goenka : There is no Chief Law Officer as such.

Shri Rajagopalachari : Let me explain it. I wish you came to the Select Committee where I could explain it in detail. There is an Attorney-General for the Government of India, there are Advocates-General in the States. There are twenty-six State in many of which there is no Advocate-General. I have therefore put 'the Chief Law Officer,' because if we provide an Advocate-General for every State it will mean a good deal of money. If any further qualification is necessary, we shall consider it. This appeal is specifically provided for in sections 22 and 23. If we assume that there will be always misuse of authority, this provision can be attacked, but if we assume that laws should be made for the protection of the people, it is necessary to have a provision of this kind.

Shri Goenka : I was only anxious to know as to who is the 'Chief Law Officer' who is referred to.

Shri Rajagopalachari : I have already explained that if that expression causes any difficulty I am quite prepared to remove all ambiguity. I only wish that there were such points to be accommodated and not basic differences.

It was stated that there could be double punishment under clause 32. The general law protects everyone against being twice penalized for the same offence. The law provides punishments for various kinds of offences and breaches. No one however will be permitted by the law to be unjustly penalized twice over. We cannot however enact that by reason of this Press Law under which a press can be proceeded against, private rights of complaint are thereby abolished. The ordinary law must continue to be in force

in spite of the several provisions of this Bill, subject of course to the general rule that no one can be punished twice over for the same set of acts. The general rule does not require to be reiterated in this Bill. We should not however confuse this principle with quite another set of circumstances. If 'A' commits an offence, 'B' cannot escape if he was party to it also, simply because 'A' was punished. If 'A' and 'B' commit an offence as members of a corporation, the fine on the corporation does not exempt 'A' and 'B' from being liable separately for what they could be proved to be directly responsible for. These are well-known legal principles which do not require to be dealt with in this connection by me.

The explanations in old Section 4 of the Act of 1931 are not found in this Bill. There is good reason for my omitting those explanations in this Bill. It is not as if—again I wish to clarify my mind and put it before the House—it is not as if I desire to take away the benefit of those explanations. Those explanations arise out of general principles which will apply in every case whether these explanations are there or not. An express explanation of that kind was necessary where the law was differently worded, as in the Act of 1931. But as the law is worded now in this Bill such explanations are out of place and may create more difficulty than give advantage to those who are proceeded against. So the explanations were omitted. But it may be clearly taken for granted that comments expressing disapprobation of measures of the Government with a view to obtaining their alteration by lawful means and words pointing out without malicious intention and with an honest view to their removal matters which are producing feelings of enmity or hatred—these are the words of the explanation—cannot be deemed to fall within the definition of objectionable matter under any clause. Indeed such comments cannot fall within the provisions of any of the sub-clauses in clause 3 of this Bill by reason of the very wording of this clause. *Bona fide* criticism of any kind, however strongly expressed, does not fall within any of the sub-clauses of clause 3. A paper can couch its language, I know, so as not to fall within the clauses regarding encouragement to crime, and yet the intention may be different. But I do not mind. Whatever the intention may be, all that I want is and all that Parliament wants is that as a result of the presence of these restrictions the language of the paper is restrained.

Shri R. K. Chaudhuri (Assam) : We might adjourn now.

Shri Rajagopalachari : I am going to finish in a couple of minutes. We are concerned not with the mind of the writer but with the effect on the readers. Therefore, if this produces even clever evasion of the law I do not mind, because thereby the paper is reformed. Suppose a Brahman youth bathes in the morning to escape punishment, the object is attained. He is clean, whatever his mind might be. What I want is that the paper should be clean

Shri Goenka : Why only a Brahman youth ?

Shri Rajagopalachari : I am sorry. Anybody. I dared to impute a qualified homage to the Shastras only to one of my class.

Shri R. K. Chaudhuri : We can continue on Monday. In the mean time accommodation may be made.

Shri Rajagopalachari : The Hon. Member is interrupting and spoiling the effect of my 'advocacy'. I do not want this to be delayed further. We have stopped so many people from speaking and I feel it wrong to take another day because I have not finished.

There is a heavy load of obsession which we should overcome in judging this Bill. We have so much disliked the repressive policies followed by the British administrators of India that many if not most of us have come to dislike all Governments and suspect and misread every regulation that seeks to preserve order or avoid disorder. Every clause here repeats in the ears of our Press friends the language of the old laws and the old repression. They fail to see the differences even if pointed out. Every phrase revives their fears and apprehensions and their strong dislike, by the law of association of ideas. I wish we could invent altogether a new language. But our draftsmen follow the established and well-understood legal phrases and put in the necessary words or delete words so as to indicate the new features of reasonableness. But the latter pass unnoticed or unemphasized. The old hated words are held up to scorn and attack. This is our difficulty. But even here my Honourable friend, Khwaja Inait Ullah, did excellently in pointing out many things which others had left unnoticed and exposed the hollowness of the apprehensions expressed. I have, Sir, a foolish fondness for ability wherever it appears. I must say that as I read the daily outpourings of the Press on my Bill I was lost in admiration. It is remarkable how the editors of newspapers are making out that this Bill is a Bill for oppression and for strangling a free Press. These eminent and clever people who survived the British Indian law for thirty years whereby anyone intending to start a treadle press or

issue a newspaper could be called upon to furnish security as fixed in the Secretariat on the basis of police reports, whereby there was no appeal whatsoever until that security was forfeited—I am subject to correction—and even then only if the matter could not be brought within the broad ambit of Section 4 of the Press Emergency Act,—these people write that they are under great terror and seek to hypnotize their readers who have time only to read and no time to think—to believe that these clauses will suppress honest criticism and strangulate public opinion.

These editors will not or cannot themselves control their erring colleagues and they will not allow Parliament also and the court, when an occasion arises, to warn them, not to speak of punishing them. This is the meaning of opposition to this Bill. Unless Parliament makes up its mind to examine the position independently, we shall have no safeguard whatsoever against abuse of freedom and the degeneration of freedom into licence for scurrility and incitement to chaos. Let us remind ourselves that there is no physical power now sitting over everything and maintaining a kind of graveyard order, as was under Pax Britannica. There is no such power behind the screen. It was quite efficient at that time to preserve order whatever a paper may write or whatever people may do. We had this, all these long years before now. We are now free in every sense of the term. Unless we control ourselves there is nothing to check disorder which grows from thought to speech and from speech inevitably into action. The seat of evil which you seek to avoid in tangible action is the mind and if you allow that mind to be corrupted and to let evil take its seat there, you go into mortal danger. It is not for nothing that from time immemorial Governments have tried to put down mischievous writings and other inducements and discourage and prevent such things as lead finally and inevitably to disorder and unhappiness.

If you do not control the stuff produced from the printing machine in modern times and no kind of restriction is to be imposed and no deterrent law is to be in force and if democracy should depend only on the good-will of those who are inclined to rouse groups of people to mischievous intent and the better ones controlling the Press will neither undertake to impose their own sanctions nor allow us to impose them and we are asked to take physical action after overt acts and wait till they are indulged in, then let me tell you that we would want a considerable body of armed men and a fairly large mobile force in each district of India, if not sub-district. Your army will be mostly engaged in

internal security work, call it Police or Army, it will be only an internal order force and wholly engaged in that work or in being ready for it. Any financial expert will tell you that Government could not possibly afford the budget necessary for this basis of Government. Remember what I said that the great background of physical strength that kept men in order under Pax Britannica is not now available nor is it existent in the minds of men inclined to trouble. We would have to live so far as internal order is concerned from hand to mouth. That way lies Fascism. It is doctrinarianism that leads to Fascism everywhere. It is practical sense that prevents it. The best Constitution cannot help if we do not submit to practical considerations. Let us consider calmly what the position is.

Shall we repeal the Act of 1931 and leave the Press to do what they like depending only on the Penal Code regarding abetment of murder or of offences, defamation and contempt of court and let the people be misled to any extent and wait till newspapers of themselves improve? Is it our idea that writings do not matter? If not, what should be the restrictions? That writings matter is obvious. Then, what are the restrictions? These are stated in clause 3, I claim, with every care and caution and minimized to cover only essentials. Shall we allow these objectionable matters to be freely published by any one so inclined or shall we have the power to ask a proper judicial authority to go into alleged breaches? This is all this Bill provides for. It provides no other power to the Government.

Shri R. K. Chaudhuri : On a point of information, Sir, may I ask a question now or after the speech is finished?

Shri Rajagopalachari : The right of complaint is given to every one who is wronged. Shall we deny it to the Government in the case of a newspaper? All we want is that no newspapers should write so as to encourage the breakdown of law and order or say things to encourage serious crime.

Very much has been said that in the countries of the West there are no restrictions on the Press. I have already pointed out the special conditions and features in our country which require care and caution on our part and which it would be wrong to ignore in order to maintain uniformity with countries in the West. But, I would like to read from an official document issued by the Council of Europe to which the representatives of thirteen Governments—it is not an unofficial body—have affixed their signatures including the representatives of the Governments of Belgium, Denmark, France, Ireland, Italy, Netherlands, Turkey and Great Britain. The document was signed on

the 4th November 1950 and has been presented by the Secretary of State for Foreign Affairs in the United Kingdom to Parliament. Signed in 1950, this document necessarily deals with modern conditions and with the requirements of modern Governments. Article 10 of this document reads thus :

“Every one has the right of freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority. This article shall not prevent States from requiring the licensing of broadcasting, television, or cinema enterprises. The exercise of these freedoms since it carries with it duties and responsibilities may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.”

All these restrictions and conditions which I have read from this Convention adopted by the Council of Europe are exactly no less nor more than what have been incorporated in the amendments of the Constitution's article 19 against which such a great agitation was led and which was described solemnly as an encroachment on freedom of expression. They are, again, no less nor more than what is incorporated in clause 3 of my Bill. Every suggestion that has been made in the course of the debate will be considered by me and by the Government with respect. In the Select Committee these constructive suggestions will be discussed and examined and whenever possible without prejudice to the object of the Bill adopted.

The Select Committee's Report on the Press Bill was presented by the Home Minister to Parliament on September 27.

Among the important changes made by the Committee were: the alteration of the name of the Bill to 'The Press (Objectional Matter) Bill,' the special provision—which was added as an explanation to clause 3—exempting "comments or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out with a view to their removal, matters which are producing or have a tendency to produce feeling of enmity or hatred between different classes of persons in India," and a specific provision empowering Sessions Judges to record a warning in suitable cases instead of demanding security. The Committee also redrafted the definition of 'the press'.

The Committee expressed the view that the Bill had not been so altered as to require circulation under the Parliament's Rules of Procedure and Conduct of Business and recommended that it be passed as amended.

On October 1, 1951, Shri C. Rajagopalachari moved in Parliament that the Bill as reported by the Select Committee be taken into consideration.

Two days later, on October 3, the Home Minister replied to the debate on his motion and dealt with the criticism of the Bill.

He said :

Much was said on the basis of an allegation that there was no evidence placed before the House of the state of things that required the passing of a law of this kind and that no evidence was placed before the Select Committee, and that, it was not desirable that the Bill should be accepted by the House without that proper basis. The Hon. Member Pandit Kunzru laid great stress on this on an earlier occasion and even now, again. I would like to mention to him for his attention that I read at the Select Committee meeting what I shall read again now before this House. The Standing Committee of the All India Newspapers Editors' Conference which met in Delhi on March 13th and 14th of this year passed a resolution which speaks for itself :

"The Standing Committee, without in any way seeking to qualify the freedom the Press rightly claims for publication of news and comments in public interest, regrets and condemns the degrading tendency in a small section of the Press to persist in deliberately publishing matter which is false, malicious and indecent and which contravenes accepted standards of presentation of news and comments."

The language is that of the A.I.N.E.C. of which there are stalwart representatives in the House.

"The Standing Committee, on a reference being made to it by the Bombay Provincial Branch of the A.I.N.E.C., has considered the articles appearing (*in a certain newspaper*) of November 1 and 22, 1950, bearing respectively the titles (*something or other*). Both these articles contain material which is not related to any issue of public interest and the headlines quoted above have quite obviously been deliberately framed so as to associate in the eyes of readers . . ." I need not repeat all the names here. Then, it goes on to say : "There is no connection whatever . . ." etc.

"To make matters worse, posters bearing the same headlines were displayed in several prominent places in Bombay where the particular issue was on sale. In the opinion of the Standing Committee, these two articles and the method of their display violate all accepted canons of journalistic decency and propriety and are typical of the low types of journalism against which the A.I.N.E.C. has been carrying on a consistent campaign. The Standing Committee endorses the resolution of the condemnation of these articles taken by the Bombay Branch of the A.I.N.E.C. at its meeting held on *such and such a date*."

Shri Deshbandhu Gupta : Is this Bill the reward for this denunciation by the Standing Committee ?

Shri Rajagopalachari : I shall be able to carry on the

argument without assistance from the President of the A.I.N.E.C.

While thanking, all the same, for all the help rendered by the A.I.N.E.C., my complaint is that these are only pious resolutions. They have no authority : they have no capacity to control the low class of people that they have referred to in this resolution. Here, I may, at once, without spending much time, say what the justification for this Bill is based on. I am not using my own language; I think I am quoting from either Laski or a great Chief Justice of the U.S., Mr. Wendell Holmes, because it is a book by Laski on Wendell Holmes. I shall come to that presently.

Without any sanction or authority, the Newspapers Editors' Conference cannot control, and that is the reason why we want to give them some power which they may wield if they wished to wield. Instead of a united front being presented now, against the Bill, based on a fundamental principle, if only they had said : "Yes, this Bill is not intended against us; it is not intended against the Press as a whole, but it is intended against a certain class of people who would use the printing press for criminal purposes; and therefore we shall co-operate with the Government and instead of putting the men in a court, we shall exercise our moral power over them, because we can say to them that if they did not listen to us, there is the ordinary procedure of the law which will be taken up against them," then, the All India Newspapers Editors' Conference could have followed up resolutions like this with something which could produce results.

One member of the Select Committee—I am referring to the first question of evidence—threw at us a number of documents which he had in his pocket, booklets which contained what I might briefly say, most indecent and infamous pictures. I gave them to Pandit Kunzru who was at that time in the Committee meeting. Then, there were other things also. My Hon. friend Deshbandhu Gupta . . .

Shri Deshbandhu Gupta : If I may be allowed to interrupt the Hon. Home Minister, may I ask him whether it is not a fact that when the A.I.N.E.C. Standing Committee passed this resolution, the Government had far greater powers to deal with the papers, namely, they had even the power of precensorship. They also published this resolution . . .

Shri Rajagopalachari : I understand the point; the Hon. Member need not make a speech. As I have said, he helps me; but it will take a long time if I go on receiving

help from him. At the time this was passed in March this year no doubt, the old law was there. But, we had passed a new Constitution and the law had been put into a chaotic condition in the interval. That is what I want to replace by a new measure. In 1951, the Act of 1931 was still legally in force. But, that does not help either the Government or the A.I.N.E.C. The A.I.N.E.C. would be told by those gentlemen to whom they would have addressed any such advice: "My dear friends, look after your own affairs; we shall go to the Supreme Court and we shall see what we can do; you need not advise us."

On the point of sanction, I say the old weapon of 1931 had been put in the *Aswatha* tree and it had not been taken down. The Constitution has put it up like the weapons of the Pandavas and we could not use it now. That is why we are having this Bill now.

My Hon. friend and colleague of the Information Ministry has placed in my hands materials which if I could read before the House, the House should be very much interested, just as interested as the ordinary readers were when they read these journals from which these extracts are taken. It would be a wrong use of the time at my disposal if I read those extracts.

Shri R. Velayudhan: Read; let us hear.

Shri Rajagopalachari: But, for the sake of telling what it is like—I am not reading all—I have to read one or two typical things. This is an extract from some paper about Sardar Patel, Pandit Nehru and so on. It says:

"They also brought the United States Ambassador to their help. Loy Henderson expressed the opinion that Mr. Munshi alone was the rightful successor of Sardar Patel and if Munshi were given the place we (that is Americans) will place confidence in the Indian Government."

Not that it has any relevance to my clause, but I want to point out to what length papers can go and what type of mind had been put into action when writing these things in these papers. And Pandit Kunzru wants to have evidence of the deterioration of the standard of the Press. Is it possible for any one to imagine that such things should be allowed to be said? (Interruptions). Is it possible? Should people say that Loy Henderson got Munshi appointed or this man got another appointed and so on? And mind you, I am not reading from an obscure paper; it is a paper which is much read. I do not say that it is a good paper, but it is a paper which is much read. Now, I have done with that type.

I will read from another type of papers in the Press.

Shri Kamath : Which provision of the Bill deals with such a matter ?

Shri Rajagopalachari : I have already said that no provision deals with such matters, but we are concerned with not that type of matter but the type of mind. The editor does not take these things out from separate pigeon-holes but he gets it from the same pigeon-hole at the top of his head. That is what produces this kind of matter.

Mr. Deputy Speaker : Is it not covered by the Constitutional Amendment Act ? Will it not come under disturbance to friendly relations with a foreign State ?

Shri Rajagopalachari : I have not used that in the Bill.

And then you may read many other such things in these papers. I will not read out all that I have here, it is so bad that it is wrong even to read it out. But there is this portion dealing with personal attacks about which people have asked me, "Why not omit the word 'grossly'" and say there is no need for such provisions that it can all be dealt with by the ordinary law and so on. Well, here is an appeal to certain teachers of a particular community. "Do not neglect your communal spirit while you teach the lessons. Propagate the communal spirit either openly or indirectly as it suits the occasion, just as some other teachers do. Teach your students to despise idol worship" etc., etc.

And another : "This fellow"

An Hon. Member : How do you deal with such matters under this Bill ?

Shri Rajagopalachari : I will come to that. Let me first give Pandit Kunzru and Mr. Goenka evidence of what we have to deal with, and then I will say how I deal with it. Let me (interruptions) I am game for any number of interruptions, but the House may not like to wait so long.

"This fellow"—and the name is given—"has fallen into the trap of the libidinous woman—name given—and is romancing with her." And, so and so "is also romancing with him." Another person—name mentioned—who, it is said, has film producers to sleep with her. "Why you have talents as a dancer, why do you practise as a prostitute ?

These things are printed and distributed in the pages of newspapers and journals, not talked of in verandahs. There are many more, but I do not want to read them. They are meant for blackmailing the persons, not for preserving or improving the morale of people. That is why I have this provision against such attempts at blackmailing. But the proposal is being criticized. If I give a definition of murder, even then people would criticize it, saying that every one is not a murderer. Are there so many murders ?

Why this section? That is not an argument that should prevail when making laws. The law is made for dealing with certain classes of people, and we have to deal with them by definition. Definition is intended to satisfy the jurists and the punishment is intended to deter the offenders.

This much for evidence. I only wanted to give the briefest summary of information based on such evidence as has reached me.

It should not be imagined that the Select Committee is a commission of enquiry, to receive evidence of abuses. That is a distinction which must be remembered. It is not a commission of enquiry, but only a Select Committee on the Bill. That explains why I did not place all this material before the Committee at the time.

My Hon. friend Pandit Kunzru—I hope he will not take offence—has in his mind the old order of things. It is not necessary, now. The British Government had to explain why particular things were wanted; it is not necessary in the present state of affairs for Hon. Members to be educated about these matters. They know as much about these things as I or anybody in the Government does and it is not necessary for the Government to produce evidence. I could have read many more passages out of the materials I have here, but what I have read out will suffice for the present.

Next, there is the Communist literature of which Hon. Members are aware. There is then the Communalist literature of which also Hon. Members are aware, if they read many languages. And there is the under-ground matter of which Hon. Members may or may not be aware. I may say that if we have no new law but a simple one repealing the Act of 1931, and satisfy our constitutional conscience, all this matter will be openly duplicated and disseminated as soon as it is known that there is no law against that. It is one thing to proceed against criminals and it is another thing to prevent modern printing machines creating a mentality for such crimes. That has to be guarded against.

Hon' Members have drawn my attention and asked me why I have not proceeded against such things, as cinemas which produce crimes. That is a different matter. When we produce scenes or visible representation in attractive manner, day after day, and throw it out in the country, it is not enough to deal with the individual offenders. Such matter is produced, so to say, in the mass and we should

prevent. That is the justification for bringing the new law in the statute book.

Now, it has been pointed out that executive wrath—Mr. Shiva Rao pointed it out—would be enough. Why do you want a law like this? he asked. It was also urged, and urged rightly, that reform cannot be brought about by passing laws. And this law he told us—I hope he won't mind my saying it—will not be effective, not strong enough for the abuses. And so why depend on the law? He is right in his doubts. But then there is this difference now. In old days—and he is quite familiar with those days and the operation of the laws during those days—he was a great journalist even then and he was on the advisory committees and the like and in close contact with the operations of the law at that time.

Mere executive wrath or some sign of executive wrath was enough in those days to produce good conduct. But today the position is entirely different. The executive is incapable of wrath, and even if they showed any wrath, nobody would be affected by it. The situation is quite different now. Everybody, Tom, Dick or Harry, goes to the Supreme Court to question every law. Till recently even the subordinate courts were entitled to say this law is *ultra vires* and that law is *ultra vires* and so on. There is no fear now in the minds of people. And that is but right. I do not like fear. I do not want them to have fear. We have a written Constitution, and so mere executive talking it off or executive wrath will not have any effect now. Even the Sardar, my predecessor, was unable to deal with things because the law did not assist him. He was anxious and he wanted that so and so—a bad character—should be booked. But he was not able to do it. So without laws we can do nothing now.

Hon. Members are aware that the Committee appointed by Sardar Patel on the 15th March 1947 was asked to review all the twelve and odd laws which had a bearing on the subject. I would draw attention to pages 32, 33 and 34 of the Press Laws Enquiry Committee Report, which deserve study with care and attention and I summarize the effect of what they have said in my own words.

They did not want these laws to go out of the statute book. Only they wanted the structure of the laws to be different. They wanted these provisions of Section 4A (corresponding to Clause 3 of the present Bill). They wanted the objectionable matter defined in the Act of 1931 to go as offences and defined as offences into the general

Penal Code and they wanted the laws to be operated that way.

Then they considered the question whether the security provisions would be good or bad. They examined the question of individual responsibility and came to the definite conclusion that the ordinary legal procedure was of no use. Still they did not like security and therefore they suggested: "Transfer these just as they are into the penal code and impose heavy fines and deal with it in that manner."

For more than one reason it is necessary for me to refer to the particular and definite findings that they have arrived at on some of the issues. They say:

"We, however, are of the view that certain provisions of this Act, which do not find a place in the ordinary law of the country, should be incorporated in that law in suitable places. The following are the provisions which we recommend for such incorporation:

- (i) The offences defined in clauses (a) to (i) of Section 4 may be incorporated in appropriate places in the Indian Penal Code or other law.
- (ii) The provisions of Sections 15 to 18 relating to unauthorized news sheets may be incorporated in Part IV of the Press and Registration of Books Act, 1867.
- (iii) The provisions of Section 19 respecting forfeiture may be incorporated in Section 99A of the Criminal Procedure Code."

Then they mention the Sea Customs Act and the Post Offices Act.

Now this is the important point which I want Hon. Members to digest with respect to the substance of this law:

"Except in the few cases, where the writer of an article is known, it is difficult to fix the identity of the individual or individuals responsible for a breach of the law involved in the publication of an article in newspaper. The legal responsibility of the printer, publisher and editor is well understood, but punishment is likely to be vicarious and this consideration raises doubts regarding the propriety of the imposition of a sentence of imprisonment in most cases. The effect of pernicious propaganda carried on by newspapers day in and day out is likely to be more far-reaching than that produced by speeches. (That is for Mr. Goenka). In the case of an individual culprit, the object of imposition of sentences is punitive, preventive or curative. The case of a newspaper guilty of an offence is generally dealt with by the imposition of a fine, and, unless the fine is heavy,

it is not likely to have any preventive or curative effect. The maximum amount of fine may not prove adequate in all cases, and, in these circumstances, we consider that the punitive remedies available for dealing with recalcitrant presses should be strengthened, and accordingly recommend that necessary provisions should be made in the law to empower courts to order the closing down of a press for specified period in case of repeated violation of the laws by the Press."

I have no doubt that my friend Mr. Gupta is feeling an inclination to get up and interrupt me. I wish to tell him that it is not a correct argument to ask "Why have you not adopted all this?" The answer is that the substance of my feeling, which is the justification for this law, is also shared by members of the Press Laws Enquiry Committee.

The remedies which they have suggested are impracticable and do not appeal to me. The remedy is different from the diagnosis or the disease. My friend smiles (a smile which my friend Prof. Ranga imputed to me). My honourable friend benevolently smiled. It is a document in which not only ordinary politicians and statesmen but Mr. Brelvi and Mr. K. Srinivasan have put their signatures in the general report, apart from the minute of dissent of Mr. Tushar Kanti Ghosh, which does not cover this point.

Shri Goenka : We all agree to it unanimously : but the Government will not agree.

Shri Rajagopalachari : The remedy is not what I want to agree to. I want you to agree about the disease and the diagnosis and then let us deal with the remedy.

Shri Goenka : They are stated there.

Shri Rajagopalachari : I cannot take a doctor as well as his compounder into my employment.

The case of individual offenders and that of printers and publishers are absolutely different and separate treatment is unavoidable as admitted by them. I have dealt with this first, because that is what the daily array of editorials comes back to over and over again and what all the arguments in the House come back to over and over again.

Mr. Shiva Rao has pointed out very rightly in a beautiful speech.—I am sorry I had to interrupt it at one point and I apologize to him for the interruption.—"Has not the Press served the nation well? Why then do you penalize the Press?" It is a proper question, if I were guilty of that intention. The Bill, I submit, is not intended against the Press. I say this for the fifth or sixth time, it

necessary. The Bill is only intended against the abuse of the printing machine and of the constitutional right of freedom of speech by some bad people in furtherance of their criminal purposes. Please keep the words I have just used in mind and then read the provisions of the Bill to see whether I am talking through my hat or talking relevantly. The Bill is intended, I say, against the misuse of the printing machine and the right of freedom of speech by bad people for the furtherance of their criminal purposes. The entire agitation is based on this wrong assumption that the Bill is aimed at the Press. It is not for checking excess of criticism, as Pandit Kunzru described, that this Bill is intended. He read from an old classic book. There are many such which we can quote from. There are many kinds of statements dealing with different objects. There is a whole library of good thoughts. It is not to check any excess of language or criticism. Keep the words I have uttered in mind and then read the provisions. Am I laying down any dangerous doctrine that excess of language would be punished? No, certainly not. I am only laying down certain specific cases of incitement to criminal activities of a particular kind. There are many other kinds as well but I have put in only those of a particular kind and I say that when any press or newspaper is used for incitement to that kind of criminal activity and obscenity, I want the Government and the law to be brought into operation against such a paper or publication. But the entire agitation in the Press, however, is on the basis that it is a law against the Press.

It must be remembered that there is not only the Act of 1931 but there are Press laws in the provinces which regulate the Press in terms passed by the various legislatures in all the States of India. According to the arguments advanced at the time of the Constitution Bill by Mr. Deshbandhu Gupta, he thought that these State laws would have fresh life. That was the objection he raised at the time, that all these various State laws would come to life again under the powers which have been given in the Constitution Amendment. Then again he said that the provisions of the Act of 1931 would also obtain fresh legal life by reason of the Constitution Amendment. That was the complaint and the argument made by Mr. Deshbandhu Gupta at that time. Legally it was a right argument. Therefore I immediately said that we shall repeal all these laws and I promised to bring a Bill to repeal them and replace them by a law in accordance with liberal principles.

Here I come to the great argument that I am a breaker

of promises and assurances. With great respect I must say that the whole argument is based on imagination, if not worse. I gave no such assurance as has been made the basis of the argument to prove that I have broken the assurance. I never said that I would hand over the entire responsibility of Parliament—even if I had the power to do it—to the A.I.N.E.C. That was the argument advanced. Did I say that unless a Bill is approved by the A.I.N.E.C., I will not introduce it? But that was the argument advanced . . .

Shri Goenka : I didn't.

Shri Rajagopalachari : You did. I am sorry, you did. You can twist the language now if I allow you to make another speech—I have no doubt. That was the argument. Otherwise there has been no offence made out. Did I say that no Bill would be brought into this House unless it had the approval of the Press? And what is the approval of the Press? The approval of the Press is the approval of the A.I.N.E.C. and it means I cannot bring a Bill without their approval. Was that my assurance? It would have been a strange thing if I had given any such assurance to the House; and not only that I would repeal the old press laws of the States as also of the Centre but I would bring in a Bill which must have the previous consent of the Press and the A.I.N.E.C.; I never gave such an assurance and I never could have given such an assurance. If that was not so, what did I say? Did I not say that I would give judicial trial for the inquiries that were put down under the law? Not only that; did I also not say that a jury would be given? What was the judicial trial and the jury for if I said that I was not going to introduce some measure of this kind without the approval of the Press? For what purpose was the judicial trial promised by me, for what purpose was the jury promised by me if I were not to mention and define 'objectionable matter' and ask for an inquiry in regard to that objectionable matter?

Shri Goenka : May I beg the Hon. Minister to read his assurance so that the House may be satisfied for itself?

Shri Rajagopalachari : No, Sir. I can only say that the charges made against me are wrong. I have not parliamentary language to describe it more accurately. A charge of immorality or breach of integrity on my part does excite me to anger. I am sorry I allowed myself to go so far. But I say it in common language: I did not give any assurance of the kind that has been interpreted to have been given by me and I am not guilty of any such breach. On the contrary, I am only fulfilling a duty, a promise

which I had made in bringing this Bill. And if you don't like the Bill, by all means change it; if you want terms to be altered, by all means let us have them altered. But to say that I brought this Bill without the previous consent of the Press or the A.I.N.E.C. or its important members sitting in Parliament and therefore that I broke a promise is wrong. I could not have given such an assurance.

I considered that judicial trial as a condition precedent for passing any order against a press or publisher and doing away with the power of the executive was the most important change required. It is possible to belittle it because I have already given it, but if you have any sense of proportion, I say, the Press should feel that this is a great and important change and a fundamental change. This great and fundamental change of the whole aspect of the Press law, if I may say so, has been deliberately and unfortunately underrated in the present agitation. Much as I like some of the newspapers, much as I like some of the editors of these newspapers, I have a grievance in this matter. Let us by all means fight, but let us fight fair. Have you not underrated this great change that I have introduced? Am I not entitled to a word of recognition on that account? Even if I am not entitled, is not the clause entitled to a word of recognition on the part of the Press? I quote from one of the earlier editorials. This is from a paper which is behind none else now in attacking this Bill and calling me a dictator—re-echoing this morning Mr. Goenka's words. In one of its earlier editorials—when it had not got into steam-roller tactics, it said :

"It should not be denied",—

mark the language of the newspaper editor—can he not say positively, "It should be recognised"?—

"It should not be denied that the Bill has, relatively speaking, good points."

Shri Goenka : That is factual representation.

Shri Rajagopalachari : No, Sir. It is not; it is the bias of the editor of the Press and the member of the A.I.N.E.C. Then it continues—

"It repeals a group of restrictive measures, Central, Provincial and State, either altogether or so far as they affect the Press. It repeals precensorship, it makes the deposit of security conditional on committing an offence, no longer on merely showing the sinful desire to bring out a new publication, and where an offence is alleged to have been committed judicial inquiry would be necessary. Punishment would not, as at present, be a matter

for executive direction. These may be called important concessions."

These *are*, no, but these *may be called* important concessions. Then—

"Moreover, the punitive provisions are, it may be claimed, such as are unlikely to affect any properly conducted newspaper."

What I have said is that it is intended against criminals—it is not intended against gentlemen, or against the organization, or the whole Press. And that is how it is paraphrased here :

"It may be claimed that these provisions are unlikely to affect any properly conducted newspaper. The Home Minister thinks that the Bill will rarely be put into operation."

This was one of the earlier writings, but that is not the language of the present-day editorials—now it is something different.

It is a trick of journalistic technique to treat what is got as of no consequence and exaggerate the residuary points. I gave assurances. Whatever these assurances were, I say I have fulfilled them. If the Press lords claim that the Government or I gave the assurance that no law would be brought into being against the Press—that was as someone said yesterday; I think Mr. Goenka himself said it yesterday in different words but later on he qualified it and said no law which has not been previously approved by newspapers

Shri Goenka : What you said was whatever was considered wrong

Shri Rajagopalachari : By whom ?

Shri Goenka : By the Press.

Shri Rajagopalachari : I did not say whatever was considered wrong by the Press, that is to say by newspaper gentlemen, would not be introduced in Parliament. I did not say it. Read my language again. I could not have said it unless I was a fool, and if I said it, it must be expunged. I said I will not bring in anything which had been previously represented by the Press as oppressive. I say so again. What has been previously represented by the Press as oppressive, in my opinion, was about two important things : executive action without judicial trial, and pre-censorship. I have not introduced it and I am not going to introduce it even by way of amendment.

Mr. Goenka threw himself into a fit of moral indignation on this imagined breach on my part. I have no consciousness now nor at any time of my life of having broken

an assurance. If Mr. Goenka repeats the charge that he has made here and in his newspapers, I can only plead, as I said before, want of proper parliamentary language in not giving a suitable answer. Not only did we say we were going to introduce a Press Bill, but I said definitely we would give a judicial trial and in that connection a jury of professional men; and it was referred to both by me and by the Prime Minister. Is it not obvious that I gave no assurance that no law would be brought forward? If the complaint is that this is not the kind of law they hoped for, that is an argument on the merits and not a case of breach of assurance.

Mr. Shiva Rao frankly said this law will not be effective and Government should have executive power to meet any situation.

Shri Shiva Rao : Dangerous situation.

Shri Rajagopalachari : Dangerous situation. Is the House willing to give such powers? If the dangerous situation arises, it will, but we cannot ask for the powers now, and I also doubt if Mr. Shiva Rao's reasonableness will be shared by the House, to give such powers to the executive. They want proper definition and judicial trial and that is what I am attempting to do.

The House adjourned at this stage.

Continuing his speech in the afternoon session Shri Rajagopalachari said :

Pandit Kunzru wound up his speech this morning pointing out that abuses such as may exist do not justify the measure being placed on the statute book. Abuses do not justify a general sweep or a general law which affects all people, good and bad, innocent and not innocent. I quite agree. But is this measure conceived or in any manner designed to affect people who do not abuse—that is the question. If, as in the old Act, I proposed, 'Because there are such and such abuses, therefore I ask for security from anyone who starts a newspaper'—if I do that, it would be wrong. It would be a good argument to say that abuses do not justify a measure against the Press as a whole. If I said, 'You must submit to the orders of the executive,' I can understand the argument that abuses by some people do not justify a general law of this kind. The whole of this measure has been carefully designed and conceived so as to avoid this error. It is not, I repeat, designed against the Press or against those who do not commit an abuse. It is only when an abuse has been committed and the Government think not only that an abuse has been committed but it is such a one as demands steps to be taken, it is only then

that power is given to them, which can hardly be called power, to go to a court and make a complaint which the meanest of the citizens in India has a right to do. The Government goes with a complaint to whom—to one who is used to try and who is given the authority and the power to try murderers, robbers, dacoits and the like of the highest variety of criminality, I mean a Sessions Judge who is authorized to impose any punishment and try the gravest of offences. It is before him that the Government can go with a complaint saying that 'an abuse has been actually committed and these are the passages, these are the things of which we complain' and the Government have to prove it and the full jurisdiction is given to the Judge to decide it. The Government get no authority under this Bill against the Press or against those who have not been proved to have committed abuses, and proved to the satisfaction of a court, of a good, judicial, well established authority, with whose work the whole country has been satisfied. They are not special magistrates. They are not magistrates who can be directed or instructed by the Government. They are judges who have been accepted by the country as a whole as good judges. The argument that abuses do not justify the measure to be placed on the statute book cannot therefore be an argument that can be advanced. There is a confusion in that argument. Abuses do not justify general action against all people, but a measure is not an action in itself. A measure which is strictly confined to limiting itself against those who have been proved to have committed an abuse of the freedom of the Press is what we are enacting. Therefore, that argument is entirely unsound, although if put in general terms in a speech it looks quite sound.

Then Shri Shiva Rao asked me—I left my morning speech at that point—he asked me: 'Why can't you be friends with the Press?' I asked him: 'How am I to be friends with the Press? How is the Government to become friends with the Press?' By repeal of the old laws, the Press is not satisfied. By having a law which is restricted in the manner that I have sought, the Press is not satisfied. They reduce every advantage and every rule that has been laid down to restrict the authority of the executive in importance and under-apprise the value of those things. And they fall back upon one slogan 'No separate law for the Press as distinguished from individual offenders'. Hon. Members may turn all the editorials of all the newspapers which have dealt with this subject; they may turn to all the speeches which have been made or are going to

be made during the third reading. They will find only one slogan: Why should there be a separate law against members of the Press while you have a law to deal with individuals? I have tried to deal with that very question. Here is the Press Laws Enquiry Committee which included honourable and experienced members of the profession of newspapers, of journalists and owners of presses and newspapers, very important and responsible men. You cannot get more reliable authority than Mr. Brelvi, Mr. K. Srinivasan of the *Hindu* and such other people, not to speak of the others. I read a passage from their report and I shall read only one more sentence. Among other things, they refer to this question. Shall we apply the security provisions of the Criminal Procedure Code against the printers and newspapers? They have argued the whole case and found it impossible and they give the reason in these words:

“All these provisions of law depend for their operation on the fixing of the identity of the individual concerned. In the case however of a newspaper which is the composite product of the joint efforts of several persons, personal responsibility can hardly be defined or fixed.”

That is the difficulty in accepting this slogan ‘Don’t have a separate law against the Press when you have laws against individual criminals in the Indian Penal Code.’ Everyone of the offences that I have put down in clause 3 are offences which, if done by individuals, would find a proper place in the Indian Penal Code and they are there already. I have not invented any new offences, as the old British people used to do. Those are all offences, for which, if an individual committed them, he would be convicted under the Indian Penal Code, that hundred-year-old law which we all know, but when a Press commits it and no individual responsibility can be fixed, then this law will come into operation. More than what the Press Laws Enquiry Committee has put down, there is, if I may say so, the defensive weapon of anonymity which the Press wields. You can write a leading article. It may be written only by an ordinary young gentleman who has been recruited from the bar, but it is a leading article of the *Hindu* or of the *Indian News Chronicle*. That gentleman does not sign his name. If Shri Deshbandhu Gupta wrote a leading article in his paper and down below his article he signed ‘Deshbandhu Gupta’, the value would be quite different from the leading article such as it appears in the newspaper without the signature below it. Therefore, the great weapon which the Press have in support of their propaganda or whatever they write is the weapon of any-

mity and the defensive weapon of an impossibility to find out personal intention and the individual's own mind in the matter. Therefore it is that it is not easy to deal with all people who misuse their position alike. That is why even in the jurisprudence of America which is based on a written constitution, after long trial and experiment and after the judicial authorities had had a go at it for many years, they finally settled down on the justifiability of classification for the purpose of executing the intention of the constitution. Therefore, to say merely 'No separate law for the Press' is not a right argument, and that is the only thing to which all the people come back and they give their opinion, 'That is true; this is true, but it is nothing. You should have no separate law for the Press.' That is their case, and they condemn me and this Bill. It is easy for them to condemn because they are both the prosecutor and the judge as well as the witness. The newspapers are the witnesses for public opinion. The newspapers are the persons who are interested in it, in prosecuting so to say the Government of an intention and then they give their judgment and we read all that in the columns of the newspapers.

I am not at all frightened by the mass of opinion that has been expressed, because I know at bottom how it works, how it has been brought about and how it is mechanized so to say in the form of daily leading articles in the newspapers. True, it is sufficient to frighten people just before an election; it is quite sufficient. I know that some people have been frightened by it already. The newspapers won't give us room for electioneering. Whether it is imagination of their own mind, or whether anybody else has so told them, I wish to assure Hon. Members that on adult suffrage, if we are honest, if we are straightforward and if we are public-spirited, we need not depend upon anybody else's support. But if support comes it is a mutual affair. If newspapers live on right and honest public opinion, they live on us as much as we live on them to the extent that we get mutual help. But there could be no intimidation on that ground.

There is no doubt that the serried ranks of the Press are pouring their vials of wrath on me. I may in this connection quote words from a well known book recording the life and activities of the late President Roosevelt during the war written by his son, a most vivid and fine book—"At that time the Press was heroically contending for the absolute freedom of irresponsibility." That was the language which Roosevelt's son used about what they did with his father. I think what is being asked for

now is not very different from it. Is it freedom of the Press that is in danger?—Not a bit under this law. It is the freedom of irresponsibility that is sought to be checked here. Mr. Goenka would go one step further and say: "I want freedom of the machinery, of the printing press, not only freedom of the Press, but freedom of the machinery also, plant and machinery. Nothing should be touched whatever the offence may be." Am I asking for anything, unless the guilt has been proved? No. Am I asking for anything unless a judge has accepted the evidence? Am I asking for anything unless the fellow compeers of that profession have sat and openly advised the judge about what the verdict should be? No better safeguard could be provided. If the British Government had been brought to accept this position when they were in power here and when Mr. Shiva Rao and others were asking for various things from them, if they had secured a measure like this, I say he would have walked to the ends of the world to sing songs of praise of the British Government. But now it is nothing at all worth mentioning. Drop the Bill because, foresooth, individuals and newspapers are the same. I hope I won't be guilty of unnecessary rhetoric if I say that they are practised hands in producing forceful ratiocination and skilful presentation of the case for freedom shutting their eyes wholly to the abuse or to the need for controlling abuse.

I submit that we cannot be thrown on the Penal Code for dealing with offences of this kind. The Government cannot prove cases against newspapers as they could prove cases against individual offenders. Whether it be intimidation, whether it be indecency or whether it be instigation to criminal activities, it is not possible to prove it against any particular person in a huge organization which is concerned with the production of a newspaper. It is not possible to prove it and the Press will not assist us in giving evidence as to who wrote it and who gave it. It is not possible to apply the same law and the huge mechanical organization of multiplication and speed and anonymity made available to the Press should be separately dealt with. It is impracticable to follow the same line of action with the Press as with individuals.

I quite agree with Mr. Shiva Rao—I have said it often before he said it—that reform must, of course, come from within. Now I wish to point out to him in all humility and with great respect that the system which I have tried to put down here, namely, the jury trial, is the result of my wish to introduce this reform from within. It will give some sanction to the better class of writers and newspapers. At once,

it will be a sanction in their hands when they sit there with authority and I am sure, whatever else may or may not be achieved, indecency and scurrility—a sample of which I read this morning, I have many more which are worse—will end. If only the Press will give their brave members and they sit with the judge and a case of this kind is brought before them and they give their verdict without fear or favour, it will be seen that after that nobody will dare to write such stuff. Having got punishment from their own brethren, indecency and scurrility will surely end.

As for the other things, what is it that I have asked to be protected against? Murder, crimes of violence and intimidation for blackmail. You can alter the phraseology. I do want two or three things—let me make it clear. I do not want murder, I do not want sabotage. Some Hon. Members referred to the fact that in the old Act certain things were not there. Sabotage has been introduced, it was said. Let Hon. Members remember that in 1931 the opposition was a patriotic opposition to a foreign government and there was murder by use of bombs and pistols and the like. But there were not the things that we now have to face, for instance the tactics employed by the Communist Party and by others. The easy technique of sabotage of means of communications, removing of rails in the railway line and things like that, which have become common things and inherently so easy especially on account of the civilization that we have developed in our country, were not so widely prevalent then. It is easy to interfere with the railway lines if only one or two people make up their mind. Sabotage now has become far more important than murder in o'd days. More men can be killed by a simple removal of a rail than by any number of bombs or pistols used prior to 1931. Therefore it is necessary to deal with these things. I do not want anything more than to deal with murders, crimes of violence and a sabotage and interference in distribution of articles of essential importance to the community. It is very necessary. Controls may be good, controls may be bad. But it should be realized that whole masses of people depend on the working of the Government with reference to procurement and distribution. We should not confuse one thing with another. It is not criticism that I do not like. I only do not want interference in the working of that system. I do not want a spanner to be thrown into the machine. The machinery may be criticized, you may even change it, but do not put a spanner into the machine. These are the things which I want the House to protect against.

Maulana Abul Kalam Azad : And seduction of the army and police.

Shri Rajagopalachari : Of course the House will have to protect Government against seducing members of the police and military. It is not individual cases of seduction that I am afraid of. If the writings in the Press including the language papers were to bring about a state of mind which leads to seducing members of the armed forces, it is a dangerous thing. We do not want such things.

As I have already said I am prepared to go through the clauses with Hon. Members and am prepared to accept any change that will appeal to reasonable minds in the House. I want, if at all, to err on the safe side. As Hon. Members who worked with me either in this Committee or in other committees might have noticed, I do not mind taking some risks. I do not mind going two feet if the other side will come one foot forward. I will approach every kind of suggestion in that spirit. No decent paper need be afraid that it will be prosecuted under this law, and I may say that if only Mr. Shiva Rao will persuade his brother journalists to work wholeheartedly in co-operation with this scheme in the Bill, if the obsession is removed from their mind, they will find it is intended against criminals. If only the responsible section of the Press will work it, they will find reform coming from within. They will find their A.I.N.E.C. will gain importance. You will find your resolution will have matter in it and not mere gas. Then you will be able to exercise moral influence which you are not able to exercise now. The most vital part of this Bill is trial by jury. I go further. At some future time I know the organized Press will frame its own code of professional ethics and discipline and appoint its own council of discipline and ask Government for statutory powers to execute its decisions regarding breaches of discipline by anybody, irrespective of whether one is a member of the organization or keeps out of it, as in the case of the Bar Council or the Medical Council. There, a council of the professional people is given full authority to dismiss people, even though they may not be members but belong to the profession. The Bar Council can debar a lawyer. The Medical Council can debar a doctor if he misbehaves. They have got the power, and they act with boldness. They have therefore got power in reality. I think the time will come when the Press organization will form its council of discipline and ask for powers from the Legislature, and the Government will certainly be able to give those powers, and then this Bill may be torn and thrown into the waste paper basket.

If the Press organization offers thus to protect the interests of society as a whole and does not content itself with passing pious and ineffective resolutions, I say that the Government will be prepared to ask Parliament, whatever Government may then be in power, to pass a law conferring on them these powers and responsibilities, just as they have invested the Bar Council and the Medical Council with such powers, and this law can then be repealed. Let me again tell my A.I.N.E.C. friends that it is not merely protecting the trade and professional interests of those engaged in producing newspapers that is the be-all and end-all of a Press organization. They must protect the standards and they must get the necessary powers for protecting those standards of conduct. What is the law for? If abuses are there, I am asked, how are you going to deal with them by this law? I admitted, even before being asked, that it could be used only when I can prove an incitement in the words—an incitement, expressed directly in so many words—to do sabotage or amounting to criminal intimidation. No writer will write like that. I am not referring to the skilled writers from whom I quoted this morning a passage. I am referring even to ordinary writers in language newspapers. They will not write open 'incitement' or 'encouragement' or what may obviously 'tend to' crime. They will not do that. They will write things in such a way that I cannot catch them at all—when I say 'I', I mean the officers of the law. They will write in such a way that nobody can catch them. I know that. Then what is the justification for the statute? This morning I looked for the passage. Here it is:

"The justification of a statute consists in some help which the law brings towards reaching a social end which the governing power of the community has made up its mind that it wants."

If we do not want these abuses to be indulged in, the social end which the community wishes to reach is assisted to a certain extent, by the statute, because it will be helpful as a sanction to those who wish to execute it by moral influence or otherwise. That is the justification and I think this Bill is intended for that purpose and will serve that purpose if it is accepted.

The comparison which Mr. Shiva Rao made between the 1931 Act and the present measure led him to say that some new things have been added. As I have already said, certain things about sabotage and other things have been added. We live in reality and not merely in copying an old statute. Although there is much to be learnt from the

draftsmanship of the older laws and many phrases may repeat themselves, still in substance Hon. Members will find that we are dealing with what is necessary now and if there is anything there which is not necessary now we may drop those things. All over the world the natural end of modern civilization is such that the essential services labour rules the land. Let me tell Hon. Members it is not votes that rule, though it may look like that in the Constitution. It is labour in the essential services that rules the country. We have reached that stage of civilization when we depend so much on the services that it is that alone that rules. Should we not see that their minds are not poisoned? Should we not see that nothing is done to prevent the essential services from going out of order? That is why I have in this Bill introduced reference to the essential services and to essential commodities which did not find a place in 1931, for they did not find a place in the scheme of government of those days. They had nothing to do with these things. The Government dealt with administration and the rest the people were looking after. We have reached a stage when we cannot deal with Government only in that way. We have to deal with essential services, and we have to introduce that clause.

Now I come to Prof. Ranga who spoke very strongly about it. I may go very far with him in his dislike of controls. It is not a question of my liking or disliking it, but it is a question of whether it is necessary and whether we can get along without it. On that question he may not differ if he took the responsibility. Just now it is easy for him to say that the agriculturists do not get their proper prices. Even there I can go far with him and I may say that sometimes to sit upon a price in an obstinate, stubborn and unsympathetic manner may be wrong and it may be necessary sometimes to allow inflation to find its natural outlets up to a point. I may go with him up to that point. When he says it should be removed from the crime list and anybody may be allowed to do anything with controls he is wrong. He has misunderstood the position in regard to that point in this Bill. He generally does not mix up arguments, but I think he lost his logic to some extent when he addressed the House on this subject. He was talking as if we were dealing with controls. We are not dealing with controls. I have put in an explanation which definitely says you may criticize, comment or do anything you please with the laws or the measures or the administration or the policy, but do not interfere with the working of the services or the distribution of commodities. The

whole fear of executive order without judicial control is still obsessing the minds of people. The present judicial system that is introduced in the Bill is wholly ignored and the old obsession seems still to sway people's minds.

I now come to Mr. Goenka's very great argument about the document that I read on the previous occasion from the Convention of the Council of Europe. I have a shrewd feeling that that document has convinced people that their arguments are wrong. That is why they are getting angry and are keen about saying something in regard to it. The great big argument was that throughout the civilized world these restrictions are not referred to or recognized in the least and therefore they say "you are introducing a strange law and doing something which is not right." That was their conviction from the knowledge that they had and the information that they possessed, and they pressed forward the argument. But when I was able to show them that thirteen Governments of Europe, including very advanced Governments like Great Britain, France and others—they were not unofficial or social bodies but Government representatives—met and agreed to a general Convention on the lines that I read, which included not only an enunciation of the right of freedom of expression but also a clear enunciation of the various heads under which restrictions should be accepted, and when they found that almost word for word the clauses of section 3 are covered by the clauses in that Convention, they felt: "Well, we must answer and deal with this." And how do they answer it? They say: "This has not been ratified by the Governments yet; therefore the Home Minister was wrong in referring to this as any great point." Did I quote it as I would do before the Supreme Court—that a certain precedent had been laid down and it was binding on the Court? I said that to put restrictions on the Press, is not a strange idea, that civilized Governments had sat together and considered that it was necessary to put such restrictions and they had submitted that Convention, which had been adopted and signed by the representatives of thirteen Governments, to their respective Governments for ratification. I did not burke the fact that there was no Federated Government of Europe. They were separate Governments: they met together in a convention for a particular purpose. They may hereafter become a federation, but now they are not a federation. They have accepted a common rule about the freedom of the Press and they have, each one, submitted it to their Governments. And the United Kingdom Foreign Secretary has presented it to his Parliament for ratification.

I said it in so many words and Mr. Goenka might see it. There was no case of my misleading the House into thinking that it was ratified already. Mr. Shiva Rao has now stated that the British Government have ratified it as a matter of fact. I take it to be so because he knows about these things more than I do, and whether it was ratified or not, the point in my speech was that it was authority to meet the argument that we cannot have such laws in civilized society. It is not as if that Convention bound us.

We may either have it or not at all. It proved that it would not be wrong to have such restrictions in civilized society; not only would it not be wrong, but it is necessary as has been found by other Governments.

Shri Goenka : We shall be most grateful if the Hon. Home Minister will indicate any country in the world where there is a separate law for the Press in the terms in which this Bill has been introduced ?

Shri Rajagopalachari : The Hon. Member is again under that obsession, of a separate law for individuals and a separate law for the Press. A separate law for the Press and a separate law for individuals are necessary for the reasons I have already stated. If I went and practised in the courts of Europe or in England or anywhere else, I will be able to answer him. Law is very elusive. You may imagine that you know all the laws of England but you do not know it unless you go there and see how it is operating. You do not know the laws of America. I read this morning today Mr. Truman is finding it necessary to put down something like censorship on the newspapers in America and they are protesting. We do not know the laws of other countries but we know our own laws very well and I know how difficult it will be for this Government even under this law to restrain people like Mr. Goenka and others, if they wish to do anything wrong. Law is one thing and its application is quite a different thing. The unwritten law of England is far more effective in bringing the Press under discipline than all our written laws. It depends upon how the laws are working and the conditions and circumstances. As far as I am concerned, I know my own country and this is my only justification. I know that at present in our country there are certain abuses and I know that it is necessary, and I feel that it is necessary to restrict certain units in the Press in regard to such matters and that cannot be done by leaving things to the sweet resolutions of your A.I.N.E.C. You do want the assistance of law which must be given to you. We must give this assistance to the better class in the Press . . .

Shri Goenka : May I ask one thing ?

Mr. Deputy Speaker : The Hon. Minister does not give way.

Shri Goenka : He has given way.

Shri Rajagopalachari : If you advise Sir, that I should not allow such a thing, I shall not allow the Hon. Member to interrupt. But I do not think that there will be anything new; the thing has been discussed threadbare. That is only a trick of the law courts to say something, which may remain in the minds of the jury at the last moment . . .

Shri Goenka : That is a trick which the Home Minister knows . . .

Shri Rajagopalachari : Recently my younger friends have learnt it also.

Mr. Goenka alluded to an abstract disquisition of a Deputy of the French Assembly and he has read it to the House and he gave the date. I need not repeat the date. It is certainly very old and may be a classic but it is an abstract disquisition of a Deputy in the Parliament there and a very pale reflection of Rousseau and Voltaire. Is that any guide in the affairs of our country here ? And that was a speech made when some security law there was to be repealed. What was that security law ? God alone knows and if it had been here, probably it would have been repealed twenty years ago. When that law was repealed in France, a certain Deputy made a speech. It is exactly as if Mr. Goenka's speech in this Assembly with reference to the repeal of the Act of 1931 is to be read by somebody afterwards as laying down the philosophy of law and statesmanship. It is absurd to quote a thing like that

Shri Goenka : May I know if any security measures exist in any part of the world ?

Shri Rajagopalachari : I say that in those places the organization of the Press is sufficiently strong to maintain the standard. Here it has been proved and may I say, it has been confessed by the members of the A.I.N.E.C. that they have not been able to do it and the position here is different. I was surprised when an honourable friend read from Dicey and showed to the House that there were so many laws in England strictly governing the activities of the Press. I admit I did not know it.

Shri Goenka : You can quote the other way round.

Shri Rajagopalachari : There are many pages in Dicey but those pages that refer to actual statutes are positive and binding. It does not matter what other views he may express in other pages.

Shri Deshbandhu Gupta : May I interrupt the Hon. Minister ?

Shri Rajagopalachari : No, Sir.

Then we come to the definition of the word 'tend'. Much has been said about the word 'tend'. I like English words and I like the history of English words but I do not think that all Hon. Members will share my taste in that matter. What is the root of 'intend' and what is the root of the word 'tend'? They are both the same words. What is the difference ? You could ask me and I will tell you immediately. What are we dealing with in this Bill ? Are we dealing with Mr. Goenka or a prosecution against him ? No. Are we dealing with Mr. Deshbandhu Gupta and charging him with an offence ? No. We are dealing with the words. What the law provides for is the character of the words that would come under the law. Words do not 'intend' anything. Words do something else. The quality and the meaning of the words must be taken into account. The meaning of the words in the manner in which it is expressed can be all examined when we are dealing with an enquiry under this law. These are the things that must be explained and understood. We can say the words 'tend' to produce such and such a result. Can we say the words 'intend' something ? Therefore, I have used the word 'tend' here. I am not an obstructionist. If Hon. Members have a better word to describe the idea, the connotation or the meanings of the words, I am prepared to accept it. I thought the word 'tend' was a simple word which could meet the situation. My honourable friend, Mr. Kamath, by a wave of his brain suggested that we may put down 'calculated to'. Mr. Deputy Speaker, if you will kindly permit me to say I shall say what happened in the Select Committee. I accepted the words "are calculated to" and I thought it was all right. Then I thought over it when I went home. I frankly discussed the matter with the Members of the Select Committee the next day. I said I had consulted the dictionary and the words "are calculated to" have two different meanings in the English language. One involved deliberate intention and the other was aptness and suitability to produce an effect. That is an ambiguity that cannot be allowed in the law and as we were not dealing with men and their intentions but only dealing with words, I said I must make the matter clear. I said that I had no objection to alter the words and say "are calculated to" but I must make it clear by an explanation that when we make a law to inquire into the subject-matter of an objectionable matter, we should judge it by the effect

of the words and not go into the intention of the writer, but that was not accepted. Hon. Members belonging to the profession of the Press who sat in the Select Committee were all consulted on that explanation. They all preferred the older phrase to the new version and I said : "All right; have it." But that is not the last word on the subject. If we can find any other phrase, let us have it. I myself may be able to suggest a change of words in that matter. Hon. Members also would be free to suggest. All that I want, I have made clear. I want that the words should not convey any incitement to these crimes.

If words are to be judged, we must only judge from the meaning of the words. Find any suitable phrase. I have no objection to take it. I will make it quite clear in the explanation that it is not the intention of the man concerned or the writer that has to be taken into account, but the meaning and effect of the words. I ask Hon. Members to consider this. Suppose we make a law that poison should not be sold. Do we go into the intention of the man that bottles the poison ? Is the poison dangerous or not ? We have to enquire into that. We do not enquire into the intention of the man whether he really wanted to cure the people when he bottled the poison.

There is no question of intention involved. Dissemination of poison should be controlled, whatever the intention of the man who bottled it was. Doctors and newspapers bottle poison, I say, sometimes. It is that poison and not the intention of the man.

Then, Mr. Goenka said that if this Bill becomes law, it will terrify the people and that it will create fear. And, instead of quoting from the Gita, he was quoting from some other text saying that it will finally lead to hatred and this and that. True. I want to ask the Hon. Members who belong to the profession of the Press one question. This Act of 1931 has been in operation from 1931 till today. During the last four years, as I described, it has been put up the tree like the weapons of the Pandavas. Before that, it was in operation. During these 20 years from 1931 up till recently, history does not show to my mind that there was terror or deterioration in the Press. The Press has not been servile. During the last four years also, which is relevant, before the constitutional amendment came and discussion started, did that create terror and hatred and was not the Press able to act properly in spite of that law ? That is an imaginary argument. I do not think placing this Bill on the statute book will create any terror in the minds of anybody. On the contrary, it may create a lot of skil-

fully written articles, satire, ridicule and all that put together against me. It will not create any terror; nothing of the kind. The people will go on merrily.

Another question has been asked. Why has not obscenity or scurrility, if it is true, been proceeded against? Mr. Goenka argued that political favouritism will play its part if this obscenity law is introduced. I say no, definitely. Would Parliament tolerate political favouritism in prosecution for obscenity? Would any Member of Parliament keep quiet and not put down two or three but twenty questions if any such thing happened? Is it possible under the present system of Government for political favouritism to play any part? This is an obsession.

Shri Goenka : Is there not already a law for obscenity? How many prosecutions have been made?

Shri Rajagopalachari : I have dealt with it and I will deal with it again. No gentleman or lady against whom the things that I read were written would care to go to a court and put herself in the box and say, I did not sleep with such and such a man. She would rather pay what this fellow wanted and get rid of the trouble. I want to prosecute that man. Not the lady. I feel, if there is obscenity, he must be prosecuted. I say that it is not possible. It is not worth while for a man to prosecute a particular case. Nobody bothers about it. I want to tell the editor that he cannot go on with his paper if he writes like this. It is not for that one case; I will watch ten cases. If I see him systematically going on like this, then I prosecute him. I am not satisfied with three charges for a joint trial in a single case. I am going to tell him that he must close down his press if he goes on. That is the force that I wish to employ on the papers. Difficulties in individual prosecutions are obvious to any one. No individual wishes to take up the unpleasant task and put himself at the mercy of the courts, and these slanderers themselves, who will report the proceedings of the court over and over again in their papers. I do not want to place these unfortunate people who are victimized in that position.

Mr. Goenka asked finally in his speech the other day, 'Do you think the Press has gone mad? Why are they all against you? Why are they doing this?' That was a question which he was entitled to put. I must confess that it worried me a great deal. Why are they doing this? Is it worth while for me to carry on like this? I analysed the position as far as I could do. I could see that it was an obsession that was working in their minds. I could see that it was a frustration of their hopes. They had hoped that everything would be repealed and everything would be all

right. That could have been done if only a few of these good papers were the only papers in the land. And I would have been content, like the American law or the British law, with things as they stood. But, that is not the case with our land. We have got the communal question; we have got the communists and other troubles; we have to deal with matters of all kinds. These gentlemen have an obsession that the old executive government is still there, that any law is a dangerous thing and therefore you must resist it. Somebody told them the slogan—I am sorry to use that language; I speak only the common language, I do not wish to waste the time of the House by searching for the proper words—somebody has told them that there should be no distinction between the laws for an individual and the laws for the Press and that the law must be the same. That has been made into a slogan and into a psychological complex. They had hoped for something; they have not got it. They have combined; there is the organization. An attempt was slightly made in that organization to express some difference of opinion. Immediately it resulted in the threatening of the moderate members by the extreme members. Then, they all combined together and the same story is repeated over and over again. I can understand it. But, yet, I asked myself the question. As a personal matter, I hope the House will forgive me if I indulge in a little loud thinking. I asked myself this: why should I bring up this law; why should I not let the law remain as it is; why not the next Parliament deal with it? There is nothing lost. I can go away with popularity in my pocket. Why should I do this now? Now, would this have been right? I made a promise to the House that I would bring a Bill dealing with this subject. I could not go away without bringing this Bill. I have to fulfil that promise and do my duty as I perceive it. If I had not introduced this Bill, I could have been rightly charged with a breach of promise by Mr. Goenka and Mr. Deshbandhu-Gupta, because I said in so many words that I would bring in a law. Of course, it was open to me to simply repeal the old laws and leave everything in chaos and go. Why did I not do that? I could not have satisfied my own conscience if I did that for the sake of going away in peace and with popularity.

I was prepared and I may say now to Hon. Members that I am even now prepared to make any reasonable changes. Yet, I know, I am sorry to have to say that I know that whatever changes I make here with the consent of the House, all of them agreeing, even then, the Press will with one voice say: 'this is no good; we must have

no separate laws; there should be no difference in the laws for us and the laws for individuals.' Having taken this up as a slogan, they will not change. They will ridicule every amendment and go back to that old slogan, 'leave the Press to the Indian Penal Code,' which is not possible.

There are two courses open to Parliament now : one is to drop the Bill if they so like. I have done my duty. You may drop the Bill and leave the law in the chaotic condition in which it remains. That is not my advice, I would not advise Parliament to drop the Bill. I would ask the Parliament to pass it and wait for some time to see if the Press will set up its own Council to prevent and punish abuse and ask for statutory authority to that end. As soon as they ask for it, I would, wherever I may be, advise the Government to accept it and to give that statutory authority to that Council and drop the Bill; not till then.

Mr. Goenka thought it fit to pay some compliments to me of a personal character. It is very good of him to recognize and testify to my rectitude. I think, Sir, it is easy enough for a man to be honest. It is not anything of which one need be very proud; nor need one be flattered much if some one testifies that you have not told lies. That is all that was in his compliments. But, he made that a background for making a charge against me : in order to make out that I did not believe in democracy and that I believed in dictatorship. That is his parting gift to me when I leave this House. He says that I believe in dictatorship. I shall explain that to my own satisfaction and for the satisfaction of the House. Mr. Goenka probably does not realize my point.

In my view democracy will fail unless it is based on leadership, and restraint and non-violence. And that is what this Bill wants. It does not want anything else. I may tell Mr. Goenka that democracy does not mean the constant hunger for popularity or the constant fear on the part of Parliament Members or Ministers of unpopularity. Democracy should not be equated with the craze for popularity. We should have leaders who lead, and not leaders who look for popularity. I have often insisted on this in private as well as in public. I have often insisted on the need for moral leadership. It is this which might have misled some people like Mr. Goenka to think that I am a believer in dictatorship. Moral leadership is essential for democracy. Moral leadership as distinguished from playing to the gallery is not dictatorship, but the true and stable foundation of democracy.

I wish Members of Parliament, once elected, looked only

to what was right as against what was wrong, to what was good for the country as against what was not good for the country and not to what was popular or not popular. To confirm a just man in his actions, he does not require the good opinion of other men. One must arrive at his decisions as though they were not subject to the comment of other men, as though no one were watching. *As though*. Let this qualification be remembered. Yet politicians in democracy must play extreme deference to others and to the intelligentsia around them. It is necessary for the technique of democracy. A man cannot successfully do this unless he is free of that hunger for esteem which he must claim he is subject to. This is the basic hypocrisy of politics, so wrote an eminent writer. I cannot compose words like this. To conform to this moral basis we must act on the voice of our conscience, and get esteem and approbation if they come, not do things to gain that approbation. The triumph of the leader of democracy comes just when the people suspect that their leader is indifferent to their approval. Has not our Prime Minister spoken on communal matters, on social reforms and on so many other things of the greatest importance, on this firm moral basis, discarding what others may do and say in the opposite and easy direction? Let no one mistake the battle between right and wrong which must be fought in one's own breast as a battle for dictatorship.

The Home Minister's motion that the Bill as reported by the Select Committee be taken into consideration was adopted by the House, which then proceeded to discuss the clauses of the Bill. Parliament sat till a late hour on October 6, 1951, to pass the Press Bill. Moving that the Bill as amended be passed Shri Rajagopalachari said :

I am glad that the Bill has gone through the second reading after full consideration. Before I close my statement at this stage of the Bill, I wish to make one thing clear again. It is not the intention of the Government, it is not the intention of Parliament which has accepted the provisions of this Bill, to put any undue or wrong or new restrictions on the Press. Our united aim is that the standard of all newspapers should rise and that we should arm the better class of newspapers with some sanction in order that they might use their moral influence with those who do not come up to the required level.

Much has been said about the laws of other countries. The laws of other countries are good. The laws of other countries have been fashioned according to a certain pattern. But our country is our own. Our conditions are our own and I repeat without any sense of shame about it that our laws must be our own and must be passed on the background of the realities in our own country. There is nothing wrong in confessing to our difficulties; there is nothing wrong in confessing to our weaknesses and there is everything right and nothing wrong in providing laws suitable for improving the position as it stands. It is not enough simply to say that in other countries they all wear hats; therefore we shall also wear hats. It is not right to say in other countries they eat on tables; therefore we should also always eat on tables. All these things are liable to change, but each country has its own manners. Therefore, we should not always copy other countries. When I tried to show in answer to arguments that in other countries too there are laws of this kind, it was not to show that I am blindly following the laws of other countries. It is only to show that we need not suffer from a sense of isolation, or that we are doing something which is not done in any other country. I wanted to give encouragement and confidence to ourselves and that is why when I quoted at all I quoted from the laws of other countries.

There is no reason to think that our country is in any manner behind other countries in these matters. We have an inner law operating in our country. In many respects we do not want laws at all and the inner law that is behind the hearts of ordinary folk are quite enough for the purpose of maintaining restraint. But this is a new thing. The newspaper profession is a new profession in our country and like the cinema, the newspaper has a knack of causing crimes some times. When I say newspaper it should not be imagined that I am referring to the great

and big newspapers which do not need any law, which do not need any instructions from the Government or which do not require any kind of control. I am referring to all those comprised in the term newspapers. There are many papers in this country merely conducted for partisan purposes or for purposes of blackmail or for purposes ill-conceived for the good of the country. They commit mistakes sometimes and you will have to control them.

No foreign country will lose regard for our country and for our Government, as some people are afraid, if we pass such legislation. Are we to depend on the ill-informed public opinion of other countries? Or are we to depend upon our own mother wit and do what is necessary for our country. If we are guided by the ill-informed opinion in other countries, we will have to dismiss our Prime Minister. Do Hon. Members realize the amount of abuse that is thrown at him in America by certain papers? We cannot afford to be guided by the ill-informed opinion of other countries.

I will give you an example, Madam, for the purpose of illustrating how misreporting is going on in other countries. I appeal to Hon. Members to be governed by Marcus Aurelius and to act in accordance with their own conscience and not depend upon the opinion of other people for anything, much less on the opinion of ill-informed people in distant countries. Let us shape our action according to our own conscience. There is a paper called "Truth" in England. It is a well known paper. I like to read it very much because it contains every kind of scandal sometimes; yet, it is called "Truth". It was started by a famous man Labonchere, I think. That paper has this article: *INDIA'S PRESS BILL*: "We belong neither to the East nor to the West, and our laws must be of our own pattern. This was an argument used by Mr. Rajagopalachari, Indian Home Minister, in defending the notorious Press Bill, over which controversy has been raging in New Delhi. The Bill (here I want your attention) permits executive action to be taken against newspapers after 'publication of objectionable matter.' Why India's belonging neither to West nor East, as Mr. Rajagopalachari claims, should absolve the Indian Government from leaving such matters in the sole jurisdiction of the courts is not explained."

Have I not left everything in the Bill from A to Z to the sole jurisdiction of courts? I have. But can "Truth" understand it there? This is public opinion abroad, or a unit of that public opinion. Are we to be governed by such ill informed opinion that is expressed abroad? We

should never try to do that. The use of the word 'notorious' may be explained as a lapse in language; but the statement that according to this Bill the Indian Government is absolved of leaving such matters in the sole jurisdiction of the courts is not only not true, but it is totally the opposite of truth—falsehood.

"Truth" then goes on: "Almost the entire India Press, apprehensive lest the term "objectionable matter" should come to mean any strong or even moderately distasteful criticism of the Government, has united to oppose the measure."

It may look very sweet superficially on the first hearing to Mr. Deshbandhu Gupta, but it will ultimately lead to very bad results. It is not true that the Press really think that strong or even moderately distasteful criticism of the Government would be put down under this Bill. They have no such fear. I hope they understand the Bill and the language that has been used in the Bill. This exemplifies how exaggerated agitation in regard to any matter would increase and emphasize ill-informed ignorance of important people abroad. Let us carry on any agitation by all means, but let us not exaggerate things and mislead other people and furnish grounds for writing things like this.

"Dr. Mookerjee suggested in Parliament that the newspapers should adopt towards it an attitude of 'non-co-operation, refusing to publish Ministers' speeches.'

See how far it goes and how rapidly anything said here spreads.

"Mr. Nehru, never famous for a sense of humour, failed to see the joke."

It is "Truth" that does not see the joke; it is not Mr. Nehru who does not see the joke.

"The suggestion, he said, amounted to something very near contempt of Parliament."

Words are ordinarily used; but they are misused in this article. This is a very old and experienced newspaper in England—"Truth". After all some care has to be taken by newspapers. This illustrates the substance of the Bill—we have to take great care to avoid writing things like this. The Bill cannot effectuate it; it is only a Council of Discipline of the Press than can effectuate such improvement.

"India may be closer to Moscow than Mr. Rajagopalachari thinks."

But that is a different matter.

Now I want to explain how far 'Truth' goes, or is it 'Falsehood,' goes. This is based really on a correct report

of Reuters. Reuters' report is here and it is interesting to read it.

"The Indian Parliament today agreed to refer the controversial Press Bill to a Select Committee of the House for a report to be submitted on September 29.

"Mr. Rajagopalachari, the Home Minister, replying to the six-day debate during which most speakers had assailed the Bill, said that all the Government wanted was that no newspaper should write so as to encourage the breakdown of law and order or say things to encourage serious crime."

"The measure known as the Press (Incitement to Crime) Bill, while debarring executive action against the newspapers in anticipation of an offence, permits it after publication of objectionable matter, provides for deposit of security on commission of an offence, and for judicial trial in every case."

Now 'Truth' uses the whole of the first part and omits all reference to judicial trial in every case. That is how newspapers in a hurry, in their terrible business overnight to get things ready the next morning, omit by accident just that thing which should not have been omitted.

"The definition of objectionable matter includes that which incites or tends to incite any person . . . Replying to the argument that there was no emergency which justified the measure, the Minister stated: 'We are generally poor and liable to temptations of poverty alongside an exotic culture demand a high scale of expenditure. Our country is not like other countries, either in the East or in the West. We belong neither to the East nor to the West, and our laws must be of our own pattern.'"

Correctly selected, but it gives a misleading picture. This is the sort of public opinion abroad. As against it, the *Manchester Guardian* has given a very correct picture of the whole thing, based on its correspondent's reports. It does not mislead anybody. There are good papers and there are bad papers.

Let me wind up by appealing to the House to accept the Bill as it is and not be unduly swayed by ill-informed opinions or beg considerations of popularity based on ignorance or superstition. Let us do what is right. I assure you I am taking leave of you all shortly—I promise you that you will all get success, credit and glory provided you do not care for glory, you do not care for credit but do the right thing.

Shri Deshbandhu Gupta who followed the Home Minister acknowledged in his speech that the Bill had been considerably improved and that the apprehension which the Press originally had was removed to a very large extent. After some more members had spoken, Shri Rajagopalachari replied to the debate on the final reading of the Bill.

He said :

Mr. Deputy Speaker, Sir, I do not want to take more time than I ought to but I am afraid I have to cover some important grounds even at this late hour, because apart from the very affectionate and sweet manner in which many Hon. Members expressed their satisfaction with my conduct in piloting this Bill, some friends have again reiterated their objections and their sense of dissatisfaction in pretty forcible language on this third reading of the Bill, and I ought not, I think, to leave it appear as if I could not meet them or had nothing to say about them but simply relied upon the hospitality of the House towards the Bill by way of majority. Sir, two things I will dispose of first.

It has been pressed for two different reasons that this Bill should await the conclusion of the elections. One reason is that it would be better for the party that the Government represents not to put in a measure which would range the Press against it during the elections. I submit that this does not appeal to me. Not only does it not appeal to me but it jarred on my sense of propriety. I think that if the Bill is right, it should come into force now and we must take the consequences of it when we go to the country. If the Bill is not right, it will be wrong to pass it. Therefore, that reason not only does not appeal to me but it tends to lead me in the other direction, the opposite direction. It has been urged in a skilful manner that this Bill should await the termination of the elections, because it may interfere with the freedom of elections. It is my duty to say as emphatically as I can that this Bill is not going to interfere with the freedom of elections, and no action on the part of the Government is going to interfere with the freedom with which the elections should be gone through. On the contrary I say that the enactment of this Bill in the teeth of opposition of the Press lords is in itself proof to show that we depend on the votes of the people apart from fear or favour. We want the people's votes to be freely given. If they desire their votes to be given to us, let them do so. If they desire their votes to be given to others, let them be given. This is not going to be used against anybody in opposition to the Congress. Let it also be realized that the Press which objects is not the Press of our opposition. The Press that objects is our own Press, if I may use that term. Therefore there is nothing whatsoever in the horizon against the freedom of elections in this Bill. Some members referred to the fact that I will not be here to be in charge of the right application of the Bill. Your Prime Minister is there, and you may rest assured that no injustice will be allowed to be committed in the name of this Bill in

favour or in fear of anybody. I therefore think that this obsession about the elections should be completely driven away from the minds of my honourable friends in Parliament. I do not want to lower our own standards in respect of elections. Let there be no fear about it. It is only then that anybody will win, whether he is on one side or the other. In connection with any legislative measure that you may take up at any time—this is my request to Hon. Members—let no consideration be paid to the elections, whatever may be the Bill that you consider at any time in the course of the history of Parliament. Pass a measure if it is good, throw it away if it is not good; amend it if it should be amended, but do not be bothered about the elections.

Then, Sir, I must answer Mr. Kunzru's special points. He wants me again and again to prove facts, to show him the facts, so to say, that make it necessary to enact any measure of this kind. I showed to him—but he is not satisfied with it—a complete confession in certain respects of the All India Newspapers Editors' Conference. He says that they deal only with scurrilous matter and not with such serious things as murder, communal hatred and things like that. In the course of the amendments—I do not know whether Hon. Members and Mr. Kunzru observed it—in the course of the passage of the various amendments, some honourable friend wanted to weaken the position in the clause with reference to incitement to commit murder, sabotage and things involving violence. Mr. Shiva Rao, who is no less a champion of the freedom of the Press than Mr. Kunzru—and Mr. Shiva Rao is also a colleague, if I may say so, of Mr. Kunzru—strongly objected to any weakening in clause 3. Why did he do it? Because he knows the facts in the country. He referred to a thing that happened recently—I do not wish to go into details—he said that some time after the assassination of Mahatma Gandhi the All India Newspapers Editors' Conference passed a resolution that certain newspapers should be closed down. Why did they do it? Was that very long ago? Is that not enough to show that there is necessity for a provision of this kind? I submit, Sir, that the reiterated arguments of Mr. Kunzru that there is no evidence before us to enact a Bill of this kind is a feeble argument. There is no doubt in my own mind and there is no doubt in the minds of most Hon. Members of this Parliament that things are not as sweet and nice as Mr. Kunzru seems to imagine. There is need for the provision. That takes me at once to other points. He says the Council of Europe to which I had

made reference had only decided the general terms of the restrictions. But I read the general terms of the restrictions, word for word they were the same as they were in our constitutional amendment and they are there in detail in our Bill now—everyone of the restrictions referred to, so to say, the items 1 to 6 in clause 3. What else can there be in a general Convention other than general restrictions? He asks me to show a precedent in England where they have accepted the terms of a law such as we have in this Bill. Is it possible? I go further. I don't wish to argue that point. I say we have a right to enact our own measures. Why should we in every matter want a precedent from abroad, for every particular statute. We want precedents only for general principles because we should be guided by the experience of the world but in regard to particular acts of Parliament, we must give up, I claim, this demand for precedents from other countries for every measure that we take up. Do they take our precedents in any matter? Why should we ask for their precedents in matters of this kind? We should go by the general experience of the world and therefore it is that the restrictions that were referred to were in so very clear terms, although it was not a statute and there was no statutory language. It was only a Convention or an agreement of 13 Governments. They could only refer to the general principles and that should be enough for us and we ought not to ask for precedents. If I produce a Sales Tax Bill, he will ask me to produce a precedent. He will ask me whether there is sales tax in Australia, Pennsylvania or Germany. I will not be in a position to produce it. If I introduce a Zamindari Abolition Bill, he will ask me whether there is any precedent for that in England, Germany or France. No. We have our country, we have our own affairs, we have our own experience and we shall have to carry on and face them and we should have no shame to confess our difficulties and should have no fear in meeting those difficulties at all. If we want general principles, I am prepared to go to the ends of the earth for taking them but not for precedents for the actual terms of the laws we have to pass.

That takes me to the point as to what is the thing that we have enacted. It is the last time I am speaking on this subject. Let us see what it is that we have enacted. I will not take up much time because we have not enacted much. We have enacted only a few simple things, *viz.*:

1. That no newspapers shall contain and publish matters which will incite or encourage men to overthrow or

undermine Government; and that too, through violence or sabotage.

2. That no newspapers shall contain matters which will incite or encourage any person to commit murder, sabotage or any offence involving violence.

3. That no matter should be published which incites or encourages a person to interfere with the supply and distribution of food or other essential commodities or services.

4. That no matter should be published which tends to seduce any member of any of the armed forces of the Union or of the police forces.

5. That no matter should be published which would promote feelings of enmity or hatred between different sections of the people of India.

6. That no matter should be published which contain matters which are grossly indecent or are scurrilous or obscene or intended for blackmail.

We have done nothing else in this Bill. These are the things we have done and in order to get this effectively enacted, in order to get this effectuated, we have provided provisions. There is nothing wonderful that we have done, nothing wrong and nothing of which I should be ashamed, I must say, in getting this Bill through, and I don't want any precedents from England or Germany or California in order to enact what I have read just now.

Sir, I generally don't wish to praise myself. For the first time I have been the instrument—the humble instrument for introducing a measure by a concatenation of circumstances, it repeals all previous Press laws in respect of such matters and which were valid upto date, we have repealed all of them. Secondly, I have given a judicial trial and made the Government a common complainant in every case where any of these items have been contravened. When any of these items that I read are claimed to have been contravened, I have given the executive the right to go and lodge a complaint before a judicial court and I have said that that judicial court shall try with judicial procedure and give judgment on all matters involved—the law as well as on the penalty; and in every respect the court is its own master and I have said that thereafter an appeal is open to the highest court of the land if the party is not content with the decisions given by the court. Is this wrong? I have done this for the first time. Hon. Members—some of the senior Members here, have seen through many years of previous Governments and they have seen through many Press laws. They have tried hard to get these righted and they have not succeeded till now. They have left this entirely in the hands of the Executive.

For the first time in this Bill I have given full judicial trial, in the language of the paper from which I read on a previous occasion, but suiting it for the present purpose. I have given permission to the Government to go to a court and complain *after the publication of an objectionable matter*—they cannot go before publication—and to leave the case in the sole jurisdiction of the court and that is what has been done here and therefore I think that I can really be proud of what I have done. The Press laws of this country had one fatal weakness. People were talking of removing the poisonous teeth from snakes and serpents. I have removed the one poisonous fang that was in the serpent. Nobody can complain about the six items that I have read out. If we have provided penalties and severe penalties for these things, it is because a matter which incites crime is more dangerous than the crime itself, because a crime is a single crime but matters which incite crime have a knack of multiplication of crime. The abettor is always the more seriously guilty person even in ordinary cases. It is not the actual instrument, you don't punish the knife, you punish the man who used it. You punish the rich man who induces a mercenary to kill some one for his sake. Incitement by printed matter is a more dangerous thing because it is operating everyday. The paper is printed every morning and evening and is circulated among thousands and thousands of people. If I provide full judicial trial for such incitement mentioned in these six items, is there anything wrong? Till now that trial was not available. That was the poison and no man can complain if the severest laws are enacted provided I have a right to be tried as to whether I have committed the offence. When I have the right to have a full trial as to whether any offence has been committed, there cannot be any complaint. I say then at this late stage that for the first time in the history of the Press laws of India, a full judicial trial is given from start to finish and the Government is put in the position of a common complainant and no more.

Then, Sir, I come to more fundamental matters. The fundamental claim of the Press Association is that there should be no separate law with regard to the Press, that the ordinary punishment which you give after trial to an individual for a crime should be the only punishment to be given to the Press also and that there should be no separate law about them. Now, this cannot be a claim which I can admit. I do not think that it is right from any point of view. We can go by slogans blindly, but we must now and then examine the slogan. We must not always fly above the earth level. We must come down sometimes to the

earth and see where we stand. I want the House to consider this. Can we go on treating everything alike ?

I have more than once referred before to the parallel case of conveyances. For conveyances like the bullock cart we need no laws. But after the introduction of the motor car and things like that, fast conveyances, we require stringent laws for them. Though the dictionary might use the word 'conveyance' both for the bullock cart and the aeroplane, it is not the same thing and the laws must be different. The registration, the numbering, the lights, the speed, everything is different. The whole situation is altered. Therefore it is absurd to make that claim, and whatever American faddists might say about the matter, whatever the American Press might say about the matter, I say without any doubt in my mind that the laws regarding the Press must be on their own feet. They are a class apart. We will have to deal with the Press even as we have to deal with the cinema or any modern development with powerful influences. We cannot treat the atom bomb, as the Prime Minister has said very often, as we could treat a knife or a lathi. Different laws are required for the entirely different quality of the weapon and the instrument and the material with which we have to deal. Therefore I do not accept that fundamental objection of the Press Association.

But the Press Association has no other objection. They have raised many objections. They have been met by amendments and the like. They have been met by answers. But these answers do not satisfy them. I have been reading every one of the leading articles that have been appearing in all the papers—and there have been quite plenty of them appearing day in and day out—arguments round and round, very skilfully and forcefully written. My friends know how to write. They are well practised in it. But they come back to one single argument, the fundamental objection that there should be no separate treatment of the Press as apart from the ordinary individual, which I fear I cannot accept and I do not think that it can be accepted at all. I do not think even the world will accept it. America may today talk about it in that way, but they will soon come to it, I have no doubt in my mind. They cannot treat the Press in the same manner as they treat any other citizen's right. They will have to provide for it. They may not be ready for it now.

I have often heard the talk about the volume of opinion. I know the volume of opinion is very large. Why ? Because it is the voice of opinion itself that is touched here. I am dealing with the Press, and is there anything surprising that

the Press has a large trumpet voice with which to protest its protest? Certainly therefore the voice is very large. But let there be no delusion in our minds. It is not the volume that should deceive us. It is a question of whether it is right or wrong. Do you think that we could have passed in Parliament or in any State Legislature the Zamindari Law if we had to get the consent of the zamindars or if we had to ask the Zamindari Association to give their consent and sign an agreement before we produced the law? Do you think I could have got passed the Sales Tax Bill when all the merchants in Madras had closed down their shops when I introduced it? If we had to depend upon the permission of the Merchants' Association could we have introduced the Sales Tax? Or could I have introduced prohibition if the liquor licence-holders' association had to agree to it? Certainly not. No interest—whether it is of one kind or another—no interest combined in a strong organization will give its consent to you before you deal with them. Good or bad, they will not agree. They will go to fundamental points. If only I had tried to introduce prohibition for the first time now, I would not have got it through. Even the Supreme Court would have been asked to tell me, "You cannot interfere with the right of a citizen to drink or to manufacture and sell drinks". It is therefore not possible to get the consent of every organized interest or profession before we make laws for the good of society as a whole. We have to consider here the interest of society as a whole.

Here my mind goes back to what Gandhiji said when he went to a function of a certain important newspaper office. This was very long ago. He said then: The Press has two functions. You have to voice public opinion and reflect public opinion. That is one. You have to educate public opinion. That is another.

You have to lead—you have not simply to be a mirror for reflecting public opinion. You have to be a teacher of the public and educate them. What is the Press doing now in that regard? No doubt they are voicing public opinion, getting information and spreading it, giving their opinions in leading columns and spreading it. But do they really educate? That is the question. They educate in certain matters. But I do claim that for the moral uplift of the country the Press has much more to do. That is the main function of the Press.

Here I say let us in India show that we can set an example to the rest of the world. Let us not ask for precedents from other countries. It is time we forgot other countries in this matter. Let us go alone. Let us be friends

with other countries, but let us also try to teach other countries in some thing. Let us teach them that in this country, in the new age, so to say, the Press has started a different function, it has started to make people better.

The Press is a great organization, I know. The education is run by whom? By the school masters in a certain way because they deal with children. But the real adult education on which we have to depend so much is what pours day in and day out in the most interesting and entertaining columns of the papers. Men read them. The cinemas have overtaken the Press. They are educating the people in a different way. They are no doubt entertaining people very well. But the education part of it is very poor and very bad. Let the Press do this. Let them give interesting information—let them give good, nice pictures, news, everything. But at the same time the Press ought to keep before it the duty of educating men in the moral and spiritual plane. And if that is done by our Press do you mean to say that this Press Bill can hurt them? Why is it that this Press Bill is opposed? Because we are neglecting the duty that I am referring to. If the Press is interested in the duty that I am referring to, this Bill would have been a scrap of paper for them and perhaps they would have welcomed it in certain matters, just as a schoolmaster would welcome a thin cane even though he may not use it in the school.

There is a mission which we have to fulfil. Let us tell the world that the freedom of the Press is a good slogan but the duty of the Press in educating the people is a bigger slogan. It is not only freedom of the Press that we want. We have got freedom for ourselves. But is that enough? Do we not now strive to make a Welfare State? In the same manner let the Press have its freedom, but its duty is to educate people—and certainly not to incite people to crime. This is the negative aspect of that education that is embodied in this Bill.

Sir, I hope the House will accept the Bill.
I move.

After the Home Minister's speech Parliament adopted his motion to pass the Bill as amended.

The Press (Objectionable Matter) Bill received the assent of the President on October 23, 1951.

APPENDIX

THE PRESS (OBJECTIONABLE MATTER) ACT, 1951. **No. LVI of 1951**

An Act to provide against the printing and publication incitement to crime and other objectionable matter.
Be it enacted by Parliament as follows :

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement—(1) This Act may be called the Press (Objectionable Matter) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and shall remain in force for a period of two years from the date of its commencement.

2. Definitions—In this Act, unless the context otherwise requires,—

(a) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed, lithographed or otherwise mechanically produced ;

(b) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(c) "competent authority" means any officer empowered in this behalf by a general or special order of the State Government ;

(d) "document" includes also any painting, drawing or photograph or other visible representation ;

(e) "newspaper" means any periodical work containing public news or comments on public news ;

(f) "news-sheet" means any document other than a newspaper containing public news or comments on public news ;

(g) "press" means a printing press, and includes all plant, machinery, duplicators, types, implements and other

materials used for the purpose of, or in connection with, printing or multiplying documents ;

(h) "Press Registration Act" means the Press and Registration of Books Act, 1867 (XXV of 1867) ;

(i) "Sessions Judge", in relation to the presidency town of Calcutta or of Madras, means the Chief Presidency Magistrate ;

(j) "unauthorized newspaper" means—

(i) any newspaper in respect of which security has been required under this Act but has not been furnished as required, or

(k) "unauthorized news-sheet" means any news-sheet in respect of which security has been required under this Act but has not been furnished as required ;

(l) "undeclared press" means any press other than a press in respect of which is for the time being a valid declaration under section 4 of the Press Registration Act.

3. Objectionable matter defined—In this Act, the expression "objectionable matter" means any words, signs or visible representations which are likely to—

(i) incite or encourage any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority in any area ; or

(ii) incite or encourage any person to commit murder, sabotage or any offence involving violence ; or

(iii) incite or encourage any person to interfere with the supply and distribution of food or other essential commodities or with essential services ; or

(iv) seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force ; or

(v) promote feelings of enmity or hatred between different sections of the people of India ;

(vi) are grossly indecent, or are scurrilous or obscene or intended for blackmail.

Explanation I.—Comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtain its alteration or redress by lawful means, and words pointing out, with a view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different sections of the people of India,

shall not be deemed to be objectionable matter within the meaning of this section.

Explanation II.—In judging whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representations, and not the intention of the keeper of the press or the publisher of the newspaper or news-sheet, as the case may be, shall be taken into account.

Explanation III.—‘Sabotage’ means the doing of damage to plant or stocks, or to bridges, roads and the like with intent to destroy or injuriously to affect the utility of any plant or service or means of communication.

CHAPTER II

PRINTING AND PUBLICATION OF OBJECTIONABLE MATTER

4. Power to demand security from presses in certain cases—Whenever upon complaint made to him in writing by the competent authority and inquiry made in the manner hereinafter provided, a Sessions Judge is satisfied—

(a) that any press kept within the local limits of his jurisdiction is used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, and

(b) that there are sufficient grounds for demanding security from the keeper of the press under this section, the Sessions Judge shall, by order in writing, direct the keeper of the press to deposit as security within twenty-one days from the date of the order, such amount as the Sessions Judge may think fit to require in money or the equivalent thereof in Government securities as the person making the deposit may choose :

Provided that if, having regard to all the circumstances, the Sessions Judge is satisfied that the requirements of the case will be met by a warning, he may, instead of demanding security, record such warning.

5. Power to forfeit security or demand further security—upon complaint made to him in writing by the competent authority and inquiry made in the manner hereinafter provided, the Sessions Judge is satisfied—

(a) that any press in respect of which any security has been ordered to be deposited under section 4 or under this section is thereafter used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing objectionable matter, and

(b) that there are sufficient grounds for making an order under this section,

the Sessions Judge shall, by order in writing,—

(i) declare such security as has been deposited or any portion thereof to be forfeited to the Government, or

(ii) direct the keeper of the press to deposit, within twenty-one days from the date of the order, such further security as the Sessions Judge may deem fit to require, and may also, in either case, declare all copies of the newspaper, news-sheet, book or other document containing such objectionable matter, wherever found in India, to be forfeited to the Government.

6. Consequences of failure to deposit security as required under section 4 or section 5—(1) Where the keeper of a press is required under section 4 or section 5 to deposit any amount as security and the deposit is not made within the time allowed,—

(a) the declaration made by the keeper of the Press Registration Act shall be deemed to be annulled ;

(b) notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make, or be allowed to make, a fresh declaration before a Magistrate under that Act in respect of the press unless he deposits with the Magistrate as security the same amount as was required of the keeper of the press under section 4 or section 5, as the case may be, in money or the equivalent thereof in Government securities as the person making the deposit may choose ; and

(c) the press shall not be used for the printing or publishing of any newspaper, news-sheet, book or other document until the deposit has been made.

(2) Where any press is used in contravention of sub-section (1), any Magistrate may, on a complaint in writing made to him in this behalf by the competent authority, direct the keeper of the press to show cause why it should not be forfeited to Government, and, after hearing him and on being satisfied that there are grounds for passing the order, declare the press or any part thereof to be forfeited to the Government :

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if the keeper of the press deposits the required amount within the aforesaid period, the press or part thereof, as the case may be, shall be returned to the keeper of the press.

7. Power to demand security from newspapers and news-sheets in certain cases—Whenever upon complaint

made to him in writing by the competent authority and inquiry made in the manner hereinafter provided, a Sessions Judge is satisfied—

(a) that a newspaper or news-sheet published within the local limits of his jurisdiction contains any objectionable matter, and

(b) that there are sufficient grounds for demanding security from the publisher of the newspaper or news-sheet under this section,

the Sessions Judge shall, by order in writing, direct the publisher of the newspaper or news-sheet to deposit as security within twenty-one days from the date of the order, such amount as the Sessions Judge may think fit to require in money or the equivalent thereof in Government securities as the person making the deposit may choose.

8. Power to forfeit security or demand further security—Whenever upon complaint made to him in writing by the competent authority and inquiry made in the manner hereinafter provided, the Sessions Judge is satisfied—

(a) that any newspaper or news-sheet in respect of which any security has been ordered to be deposited under section 7 or under this section thereafter publishes any objectionable matter, and

(b) that there are sufficient grounds for making an order under this section,

the Sessions Judge shall, by order in writing,—

(i) declare such security as has been deposited or any portion thereof to be forfeited to the Government, or

(ii) direct the publisher of the newspaper or news-sheet to deposit within twenty-one days from the date of the order such further security as the Sessions Judge may deem fit to require,

and may also, in either case, declare all copies of the newspaper or news-sheet containing such objectionable matter, wherever found in India, to be forfeited to the Government.

9. Consequences of failure to deposit security as required under section 7 or section 8—(1) Where the publisher of a newspaper is required under section 7 or section 8 to deposit any amount as security and the deposit is not made within the time allowed.

(a) the declaration made by the publisher of the newspaper under section 5 of the Press Registration Act shall be deemed to be annulled; and

(b) notwithstanding anything contained in the Press Registration Act, no person shall make, or be allowed to make, a fresh declaration before a Magistrate

under section 5 of that Act as publisher of that newspaper or any other newspaper which is the same in substance as that newspaper, unless he deposits with the Magistrate as security the same amount as was required of the publisher of the newspaper under section 7 or section 8, as the case may be, in money or the equivalent thereof in Government securities as the person making the deposit may choose.

(2) Where a deposit is required from the publisher of a newspaper or news-sheet under section 7 or section 8, no press shall, after expiry of the time allowed to make the deposit, be used for the printing or publishing of such newspaper or news-sheet, without the permission of the Government, until the deposit has been made.

(3) The keeper of any press who knowingly contravenes the provisions of sub-section (2) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and where such keeper is convicted for a second or subsequent contravention under this sub-section in respect of the same newspaper or news-sheet, the Court may also direct that the press or any part thereof shall be forfeited to Government :

Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture, and if the keeper of the press deposits the required amount within the aforesaid period, the press or part thereof, as the case may be, shall be returned to the keeper of the press.

10. Amount of security—The amount of security, required to be deposited by the keeper of a press or the publisher of any newspaper or news-sheet under section 4 or section 5 or section 7 or section 8, shall be fixed with due regard to the circumstances of the case and shall not be excessive, and shall, in no case, be larger than the amount specified in the complaint under section 16.

11. Power of Government to declare certain publications forfeited—The State Government may, on the certificate of the Advocate-General or the principal law officer, as the case may be, of the State or of the Attorney-General of India that any issue of a newspaper or news-sheet or any book or other document, wherever made, contains any objectionable matter, by notification in the Official Gazette, stating the grounds for the order, declare that every copy of such issue of the newspaper or news-sheet or of such book or document shall be forfeited to the Government.

12. Power to detain packages containing certain publications when imported—(1) The chief customs officer or

other officer authorized by the State Government in this behalf may detain any package brought whether by land, sea or air into the territories to which this Act extends in which he suspects there are newspapers, news-sheets, books or other documents containing objectionable matter, and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the State Government may appoint in this behalf to be disposed of in such manner as the State Government may direct.

(2) Any person aggrieved by any action taken under sub-section (1) may apply to the State Government for review and the State Government may pass such orders thereon as it thinks fit.

13. Prohibition of transmission by post of certain documents—(1) No newspaper, news-sheet, book or other document which has been declared to be forfeited under any of the provisions of this Act, and no unauthorized newspaper or unauthorized news-sheet shall be transmitted by post.

(2) Any officer in charge of a post office or authorized in this behalf by the Postmaster-General may detain in course of transmission by post any article, other than a letter, which he suspects to contain any such document as is mentioned in sub-section (1), and shall deliver all such articles to such officer as the State Government may appoint in this behalf.

(3) If the officer to whom any article is delivered under sub-section (2) is satisfied that the article contains any such document as is mentioned in sub-section (1), he may pass such orders as to the disposal of the article and its contents as he deems proper, and if he is not so satisfied, he shall return the article to the post office for transmission to the addressee.

14. Power to seize and destroy unauthorized newspapers and news-sheets—(1) Any police officer or any other person empowered in this behalf by the State Government may seize any unauthorized newspaper or unauthorized news-sheet.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may, by warrant authorize any police officer, not below the rank of sub-inspector, to enter upon and search any place where any stock of unauthorized newspapers or news-sheets may be, or may be reasonably suspected to be, and such police officer may seize any document found in such place which in his opinion are unauthorized newspapers or unauthorized news-sheets.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorized newspapers or unauthorized news-sheets, the Magistrate or Court may cause them to be destroyed, but if, in the opinion of such Magistrate or Court, any of such documents are not unauthorized newspapers or unauthorized news-sheets, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code.

15. Power to seize and forfeit undeclared presses producing unauthorized newspapers and unauthorized news-sheets—(1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, has reason to believe that an unauthorized newspaper or unauthorized news-sheet is being produced from an undeclared press within the local limits of his jurisdiction, he may, by warrant, authorize any police officer not below the rank of sub-inspector to enter upon and search any place where such undeclared press may be, or may be reasonably suspected to be and if in the opinion of such police officer any press found in such place is an undeclared press and is used to produce an unauthorized newspaper or unauthorized news-sheet, he may seize such press and any documents found in the place which in his opinion are unauthorized newspapers or unauthorized news-sheets.

(2) The police officer shall forthwith make a report of the search to the Court which issued the warrant and shall produce before such Court as soon as may be all property seized :

Provided that where any press which has been seized cannot be readily removed, the police officer may produce before the Courts only such parts thereof as he may think fit.

(3) If such Court after such inquiry as it may deem requisite is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorized newspaper or news-sheet, it may, by order in writing, declare the press or any part thereof to be forfeited to the Government, but if after such inquiry the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code.

(4) The Court shall deal with the documents produced before it under this section in the manner provided in sub-section (4) of section 14.

CHAPTER III

PROCEDURE

Inquiry before Sessions Judges

16. Contents of complaint—Every complaint to the Sessions Judge under this Act against any person (hereinafter referred to as the respondent) shall state or describe the objectionable matter in respect of which the complaint is made, and where it is desired that security should be demanded from the respondent, shall specify the amount of security which, in the opinion of the State Government, should be so demanded.

17. Issue of notice—On receipt of a complaint from the competent authority, the Sessions Judge shall issue notice thereof to the respondent calling upon him to appear and show cause on a date to be specified in the notice why such action as may be appropriate in the circumstances of the case should not be taken against him under this Act.

18. Procedure for inquiries—(1) When the respondent appears before the Sessions Judge in compliance with a notice under section 17, the Sessions Judge shall settle the points for determination and proceed to inquire into the complaint and after taking such evidence as may be produced and after hearing the parties, pass such orders under this Act as he may think fit.

(2) Any inquiry under this Act shall be made, as nearly as may be practicable, in the manner prescribed for conducting trials in summons cases by Magistrates under the Code except that evidence shall be recorded in full.

19. Non-appearance of respondent—If upon the day appointed for the appearance of the respondent or any day subsequent thereto to which the inquiry may be adjourned, the respondent does not appear, the Sessions Judge shall proceed to hear the complaint and take all such evidence, if any, as may be produced in support of the complaint and pass such orders under this Act as he may think fit :

Provided that if, on an application made by the ex parte order, the Sessions Judge is satisfied that there are sufficient grounds, he may set aside the order and make a fresh inquiry into the complaint.

20. Jury—(1) If in any inquiry before a Sessions Judge under this Act, the respondent claims to have the matter

determined with the aid of a jury, the provisions hereinafter contained shall apply.

(2) Every such jury shall consist of five persons and shall be chosen from the persons summoned to act as such from the list of persons prepared under sub-section (3).

(3) Such officer as may be appointed by the State Government in this behalf shall prepare and make out in alphabetical order a list of persons residing within the State who by reason of their journalistic experience or of their connection with printing presses or newspapers or of their experience in public affairs are qualified to serve as jurors.

(4) The list shall contain the name, the place of residence and occupation of every such person.

(5) In so far as the provisions of parts C, E, F and K of Chapter XXIII of the Code can be made applicable consistently with the provisions of this Act, the provisions of the said parts C, E and F shall apply to all inquiries under this section, and the provisions of the said part K shall apply to the preparation and revision of lists of jurors under this section.

21. Conclusion of inquiry made with the aid of a jury—

(1) Where in an inquiry made with the aid of a jury the Sessions Judge does not think it necessary to express disagreement with the opinion of the jurors or a majority of the jurors, he shall pass orders accordingly.

(2) If in any such inquiry the Sessions Judge disagrees with the opinion of the jurors and is of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly recording the grounds for his opinion.

(3) In dealing with the case so submitted, the High Court may exercise any of the powers conferred on a Sessions Judge by this Act.

22. Admissibility of previous and subsequent issues—

In any inquiry before a Sessions Judge with reference to any newspaper or news-sheet, may be given in evidence in aid of the proof of the nature and effect of the words, signs or visible representations in respect of which the complaint is made.

Appeal and Application to High Court

23. Appeal to High Court against orders of Sessions

Judge—Any person against whom an order is passed by a Sessions Judge under section 4, section 5, section 7, or section 8 may, within sixty days of the date of such order, prefer an appeal to the High Court, and upon such appeal, the High Court may pass such orders as it deems fit confirming, varying or reversing the order appealed from,

and may pass such consequential or incidental orders as may be necessary.

24. Application to High Court against orders of forfeiture—Any person aggrieved by an order of forfeiture passed by the State Government under section 11 or by a Magistrate under sub-section (2) of section 6 or sub-section (3) of section 9 or by any order under sub-section (2) of section 12 may, within sixty days of the date of such order, apply to the High Court to set aside such order, and upon such application, the High Court may pass such order as it deems fit confirming, varying or reversing the order of the State Government or the Magistrate, and may pass such consequential or incidental orders as may be necessary.

25. Procedure in High Court—Every High Court may frame rules to regulate the procedure in respect of cases submitted to it under section 21, appeals under section 23, and applications under section 24, costs in such proceedings and the execution of orders passed therein, and until such rules are framed, the practice of such High Court in proceedings in respect of reference, appeal and revision shall apply, in so far as may be practicable, to such cases, appeals and applications.

CHAPTER IV

PENALTIES

26. Penalty for keeping press or publishing newspaper without making deposit—(1) Whoever is the keeper of a press which is used for the printing or publishing of any newspaper, news-sheet, book or other document without making a deposit as required under section 4 or section 5 shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

(2) Whoever publishes any newspaper or news-sheet without making a deposit as required under section 7 or section 8 or publishes such newspaper or news-sheet knowing that such security has not been deposited shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

27. Penalty for disseminating unauthorized newspapers and unauthorized news-sheets—Whoever sells or distributes or keeps for sale or distribution any unauthorized newspaper or unauthorized news-sheet knowing or having reason to believe that it was an unauthorized newspaper or an unauthorized news-sheet shall be punishable with imprison-

ment for a term which may extend to six months, or with fine, or with both.

CHAPTER V

MISCELLANEOUS

28. Service of notices—Every notice under this Act shall be served in the manner provided for the service of summonses under the Code :

Provided that if service in such manner cannot by the exercise of due diligence, be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press Registration Act, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of that Act, and thereupon the notice shall be deemed to have been duly served.

29. Issue of search warrants in certain cases—(1) Where any press is, or any copies of any newspaper, news-sheet book or other document are declared forfeited to Government under this Act, the State Government may direct a Magistrate to issue a warrant empowering any police officer, not below the rank of sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(a) where any such property may be, or may be reasonably suspected to be, or

(b) where any copy of such newspaper, news-sheet, book or other document is kept for sale, distribution, or public exhibition or is reasonably suspected to be so kept.

(2) Without prejudice to the provisions contained in sub-section (1), where any newspaper, news-sheet, book or other document is declared forfeited to Government, it shall be lawful for any police officer to seize the same wherever found.

30. Conduct of searches—Every warrant issued under this Act, shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code.

31. Power to transfer cases—Whenever it appears to the High Court or, as the case may be, the Central Government that the transfer of any particular inquiry under this

Act from one Sessions Judge to another will be convenient or will promote the ends of justice, such transfer may be directed—

(a) where both the Sessions Judges are subject to the appellate jurisdiction of a High Court, by that High Court; and

(b) in any other case by the Central Government.

32. Return of security in certain cases—Where any amount as security or further security as required under section 4 or section 5 or section 7 or section 8 and no further action has been taken in respect of the press or newspaper or news-sheet under this Act for a period of two years from the date of such deposit, the person who made the deposit or any person claiming under him may apply to the Magistrate, within whose jurisdiction such press is situate, or, as the case may be, such newspaper or news-sheet is published, for the return of the security in deposit; and thereupon such security shall, upon proof of the claim of the applicant to the satisfaction of the Magistrate, be returned to such person.

33. Bar of jurisdiction—Every declaration of forfeiture to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court except the High Court on appeal or application under section 23 or section 24, and no civil or criminal proceeding except as provided by this Act shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

34. Bar of double penalty—Notwithstanding anything contained in this Act, no keeper of a press or publisher of any newspaper or news-sheet shall be prosecuted under section 26, if for the same act or omission such person has been proceeded against under section 4 or section 5 or section 7 or section 8 nor shall any such person be proceeded against under section 4 or section 5 or section 7 or section 8, if for the same act or omission such person has been prosecuted under section 26.

35. Cognizability of offences under this Act—Notwithstanding anything contained in the Code, any offence punishable under this Act and any abetment of any such offence shall be cognizable and bailable.

36. Amendment of sections 4 and 8, Act XXV of 1867—In the Press and Registration of Books Act, 1867,—

(a) in section 4, for the words “the Magistrate” the

words "the District, Presidency or Sub-Divisional Magistrate" shall be substituted; and

(b) in section 8, for the words "any Magistrate" the words "any District, Presidency or Sub-Divisional Magistrate" shall be substituted.

37. Repeals—(1) The Acts specified in the First Schedule are hereby repealed.

(2) Any provision contained in any of the Provincial or State Acts specified in the Second Schedule, in so far as it imposes any restrictions on the printing, publication or distribution of any newspaper, news-sheet, book or other document, whether by providing for the pre-censorship thereof, or for the demand of security from the printer or publisher, or in any other manner, shall cease to have effect.

THE FIRST SCHEDULE

[See section 37 (1)]

CENTRAL ACTS

1. The Indian States (Protection against Disaffection) Act, 1922.
2. The Press (Emergency Powers) Act, 1931 (XXIII of 1931).
3. The Foreign Relations Act, 1932 (XII of 1932).
4. The Indian States (Protection) Act, 1934 (XV of 1934).

STATE ACTS

1. The Hyderabad Press and Printing Establishment Act (XII of 1357F).
2. The Madhya Bharat Press (Emergency Powers) Act, 1950 (LXIX of 1950).
3. The Mysore Press (Emergency Powers) Act, 1950 (LXIX of 1950).
4. The Patiala and East Punjab States Union Press (Emergency Powers) Ordinance, 2006 (XIV of 2006).
5. The Rajasthan Press Control Ordinance, 1949 (XLVI of 1949).

THE SECOND SCHEDULE

[See section 37 (2)]

1. The Assam Maintenance of Public Order Act, 1947 (V of 1947).

2. The Bihar Maintenance of Public Order Act, 1949 (III of 1950).
3. The Bombay Public Security Measures Act, 1947 (VI of 1947).
4. The Madhya Pradesh Public Security Measures Act, 1950 (XXIII 1950).
5. The Madras Maintenance of Public Order Act, 1949 (XXIII of 1949).
6. The Orissa Maintenance of Public Act, 1950 (X of 1950).
7. The West Bengal Security Act, 1950 (XIX of 1950).
8. The United State of Gwalior, Indore and Malwa (Madhya Bharat) Maintenance of Public Order Act, Samvat 2005 (VII of 1949).
9. The Patiala and East Punjab States Union Public Safety Ordinance, 2006 (VII of 2006).
10. The Rajasthan Public Security Ordinance, 1949 (XXVI of 1949).
11. The Saurashtra Public Safety Measures Ordinance, 1948 (IX of 1948).
12. The Travancore-Cochin Safety Measures Act, 1950 (V of 1950).
13. The Bhopal State Public Safety Act, 1947 (V of 1947).

