

any of these conditions be not, in the opinion of the Local Government, fulfilled, the Local Government may cancel the suspension of the sentence. The hon. member will perceive that, under the terms of the condition, the Local Government have full discretion to act, and I would prefer to leave it to the Local Government to act.

Colonel Yate: Do the Government of India think it right to go against four judges and is it likely to uphold the judiciary of India when four judges out of five condemn a man and the Government of India order his release?

Mr. Gwynne asked Mr. Montagu if when he first heard of the Amritsar occurrences he thought it a matter for immediate inquiry and if so why he did not arrange for the commission to commence proceedings before 29th October.

Mr. Montagu: As I stated in this House on the 22nd May, 1919, the Viceroy had always contemplated an inquiry and in the first week of that month he intimated this fact to me. I said, however, on the same date "Let us talk of an inquiry when we have put the fire out." Any subsequent delay was due to climatic conditions and to the obvious difficulties in selecting and arranging for such a Committee.

Mr. Gwynne: Will the right hon. gentleman say on what date he considered the fire to be put out?

Mr. Montagu: I would not like to say that accurately in answer to a supplementary question, but I would suggest to the hon. member that it was certainly not before martial law.

Mr. Gwynne: Does the right hon. gentleman suggest it was reasonable, taking into consideration all that he has said, to wait from April until the end of October before proceedings were started?

Mr. Montagu: I understand that that is one of the charges which the hon. member will make in the debate. You cannot hold an inquiry of this kind in the Punjab during the hot weather, and you cannot ask people to serve on an inquiry the date of which has not yet been fixed.

Mr. Gwynne rose—

Mr. Spesker: The hon. member had better wait until tomorrow. He is in danger of spoiling his case by this preliminary canter.

Nevertheless Mr. Gwynne continued his cross-examination and next asked Mr. Montagu if it was his intention to publish the evidence of all the witnesses examined by the Committee, or, expected the House to form an opinion on extracts from the evidence of a few witnesses, as set forth in the Blue Book Cmd 681.

Mr. Montagu: The evidence of witnesses examined by the Hunter Committee has been published and is on sale, except that of three witnesses heard "in camera." Members were informed, on a slip attached to the Report, which has been distributed, that copies of evidence would be supplied on application to the India Office.

Mr. Gwynne: Is the right hon. gentleman aware that I have applied twice in the Vote Office for a copy of the evidence, and have been unable to get one?

Mr. Montagu: Nobody can regret more than I do the misfortunes of the hon. member. I will see that he gets a copy of the evidence this afternoon.

Mr. Gwynne: Does not the right hon. gentleman think it is very important that we should all have it? Is it not usual for hon. members to be able to get evidence of all important Commissions and inquiries in this House?

Colonel Wedgood: Will the right hon. gentleman let me have a copy too?

Mr. Montagu: There are, I think, five volumes. If I printed and distributed them all to every hon. member I should be accused of unnecessary expenditure. If the hon. member has found any difficulty in getting the evidence it is rather remarkable that he waits till the day before the debate is to take place.

Mr. Gwynne said Mr. Montagu must know that it was usual to send round such evidence. Continuing his questions, Mr. Gwynne asked Mr. Montagu at what date and through what source he eventually became aware of the details of the occurrences at Amritsar.

Mr. Montagu: Brigadier-General Dyer's own Reports were first received at the India Office in January, 1920, and the Committee's Report at the end of March. Earlier official reports had not given the details in question. It was in the previous December that I read a newspaper cablegram regarding what Brigadier-General Dyer had said in evidence.

Mr. Gwynne: Will the right hon. gentleman kindly answer my question, which was, from what source he eventually kept himself informed as to the details of the occurrence?

Mr. Montagu: Perhaps the hon. member will be good enough to study carefully the printed report of the answer I have just read to the House.

Colonel Yate: Can the right hon. gentleman explain why the Government of India did not send home General Dyer's Report?

Mr. Speaker: That does not arise out of the question.

Mr. Remer asked Mr. Montagu whether the contents of the leading Indian newspapers containing comments on the Amritsar disturb-

ances and evidence given before the Hunter Commission were cabled to him, and particularly whether a full Report of General Dyer's evidence before the Hunter Commission on 19th November was cabled to him; if they were not cabled, on what date the newspapers published from April to July were received; and whether he made a careful study of them.

Mr. Montagu: I do not think it is a part of the duty of Ministers to explain what newspapers they read and with what attention they read them.

Mr. Remer further asked whether he would state the names of the two London newspapers he asked to interview Miss Sherwood in October last. Mr. Montagu's reply was: No. Sir, I do not think it necessary to give this information.

Mr. Gwynne asked if there was any reason to believe that the tribal risings in April and May 1919 had any connection with the disturbances throughout India and especially Punjab.

Mr. Montagu replied that he was not in a position to add anything to the information given in paragraph 22 of Chapter XI of the Hunter Report.

Brig.-Gen. Surtees asked Mr. Montagu if he had received any reports from Afghanistan and the border tribes as to the activity of Bolshevik agents in those countries, and if that was resulting in a dangerous effervescence directed against British rule in India; and if he had found Bolshevik agents working in the more disturbed portions of that Empire.

Mr. Montagu: I have received reports on Bolshevik activities in the regions mentioned in the question. I know the Government of India are carefully watching the propaganda, which is, of course, dangerous in any country. I am consulting them as to the publication of a statement on the subject.

The Amritsar Debate

In the House of Commons.

8th July 1920

The House went into Committee of Supply. Mr. WHITLEY in the Chair. On the vote of £53,500 to defray the charges up to March 31, 1921, for the contributions towards the cost of the Department of the Secretary of State for India.

Mr. Montagu said: The motion that you have just read from the Chair is historic. For the first time in the history of this House the Committee have had an opportunity of voting or of paying the salary of the Secretary of State for India, and it is signalized by a very large desire for a reduction. (Laughter.) I gather that the intention is to confine the debate to the disturbances which took place in India last year. That being so, after most careful consideration, not only of the circumstances in this House, but of the situation in India, I have come to the conclusion that I shall best discharge my Imperial duty by saying very little indeed. The situation in India is very serious owing to the events of last year and owing to the controversy which has arisen upon them. I am in the position of having stated my views and the views of His Majesty's Government, of which I am the spokesman. The dispatch which has been published and criticised was drawn up by a Cabinet Committee and approved by the whole Cabinet. I have no desire to withdraw from or to add to that dispatch. Every single body, civil and military, which has been charged with the discussion of this lamentable affair, has come, generally speaking, to the same conclusion. The question before the Committee this afternoon is whether they will endorse the position of His Majesty's Government, of the Hunter Committee, of the Commander-in-Chief in India, and of the Army Council or whether they will desire to censure them. I hope the debate will not take the shape of a personal criticism of the personnel of any of them. It is so easy to quarrel with the judge when you do not agree with his judgment.

Sir E. Carson:—And with the officer too.

Mr. Montagu.—The Hunter Committee which was chosen after the most careful consideration with one single desire and motive to get a tribunal impartial to discharge the most thankless duty to the

best of their ability, was, I maintain, such a body. I resent very much the insolent criticisms that have been passed either on the European members, civil and military, or upon the distinguished Indian members, each of whom has a record of loyal and patriotic public service. The real issue can be stated in one sentence, and I will content myself by asking the House one question. If an officer justifies his conduct, no matter how gallant his record is—and everybody knows how gallant General Dyer's record is—by saying that there was no question of undue severity, that if his means had been greater the casualties would have been greater, and that the motive was to teach a moral lesson to the whole of the Punjab, I say without hesitation, and I would ask the Committee to contradict me if I am wrong, because the whole matter turns upon this, that it is a doctrine of terrorism, (Lieutenant-Commander Kenworthy—Prussianism.) If you agree to that you justify everything that General Dyer did. Once you are entitled to have regard neither to the intentions nor to the conduct of a particular gathering, but to shoot and to go on shooting with all the horrors that were involved in order to teach some body else a lesson, you are embarking on terrorism to which there is no end. (Cheers.)

I say further, that when you pass an order that all Indians must crawl past a particular place, when you pass an order to say that all Indians must forcibly or voluntarily salaam any officer of His Majesty the King, you are enforcing racial humiliation. I say, thirdly, that when you take selected schoolboys from a school, guilty or innocent, and whip them publicly, when you put up a triangle where an outrage, which we all deplore, has taken place and whip people before they have been convicted, when you flog a wedding party, you are indulging in frightfulness, and there is no other adequate word which could describe it.

If the committee follows me on these three assertions, and I shall be only too glad if there be any answer, this is the choice and this is the question which the Committee has put to it to-day before coming to an answer. Dismiss from your mind, I beg of you, all personal questions. I have been pursued for the last three months by some people and by some journals with personal attack. I do not propose to answer them to-day. Are you going to keep your hold upon India by terrorism, racial humiliation and subordination, and frightfulness, or are you going to rest it upon the goodwill and the growing goodwill of the people of your Indian Empire? I believe that to be the whole question at issue. If you decide in favour of the latter course, well, then you have got to enforce it. It is no use one Session passing a great Act of Parliament which, whatever its merits or demerits, proceeded on the principle of

partnership for India in the British Commonwealth, and then allowing your administration to depend upon terrorism. You have got to act in every Department, civil and military, unintermittently upon a desire to recognise India as a partner in your Commonwealth. You have got to safeguard your administration on that Order passed by the British Parliament. You have got to revise any obsolete ordinance or law which infringes the principles of liberty which you have inculcated into the educated classes in India.

That is one choice, to adhere to the decision that you put in your legislation when you are criticising the administration. There is the other choice, to hold India by the sword, to recognise terrorism as part of your weapon, as part of your armament to guard British honour and British life with callousness about Indian honour and Indian life. India is on your side in ensuring order. Are you on India's side in ensuring that order is enforced with the canons of modern love of liberty in the British democracy? There has been no criticism of any officer, however drastic his action was, in any province outside the Punjab. There were 37 instances of firing during the terrible, dangerous disturbances of last year. The Government of India and His Majesty's Government have approved 36 cases and only censured one, censured one because, however good the motive, I believe that it infringed the principle which has always animated the British Army and infringed the principles upon which our Indian Empire has been built.

Mr. Palmer—It saved a mutiny.

Mr. Montagu.—Somebody says that it saved a mutiny.

Captain W. Benn.—Do not answer him.

Mr. Montagu—The great objection to the rule of force is that you pursue it without regard to the people who suffer from it and that having once tried it you must go on, and that every time an incident happens you are confronted with the increasing animosity of the people who suffer. There is no end to it until the people in whose name we are governing India, the people of this country, and the national pride and sentiment of the Indian people, rise together in protest and terminate your rule in India as being impossible on modern ideas of what an Empire means.

The Alternative to Terrorism

There is an alternative policy which when I assumed office I commended to this House and which this House has supported until to day. It is to put the coping stone on the glorious work which England has accomplished in India by leading India to a complete free partnership in the British Commonwealth,—to say to India: "We hold British lives sacred, but we hold Indian lives sacred too. (Cheers). We

want to safeguard British honour by protecting and safeguarding India too, that our institutions shall be gradually perfected whilst protecting you and ourselves against revolution and anarchy in order that they commend themselves to you." There is a theory abroad on the part of those who have criticised His Majesty's Government upon this issue that an Indian is a person who is tolerable so long as he will obey your orders, (Cries of "No," "Shame" and "Withdraw") but if once he joins the educated class, if once he thinks for himself, if once he takes advantage of the educational facilities which you have provided for him, if once he imbibes the ideas of individual liberty which are dear to the British people, why then, you class him as an educated Indian and as an agitator. (Cheers.) What a terrible and cynical verdict on the whole!

Mr. C. Palmer.—What a terrible speech.

Mr. Montagu.—As you grind your machinery and turn your graduate out of the University you are going to dub him as belonging, at any rate, to the class from which your opponents come (Hon. Members—"No.")

Colonel Ashley.—On a point of order. May I ask the right hon. gentleman to say against whom is he making his accusation?

The Chairman.—That is not a point of order. We are here to hear different points of view, and all points of view. (Cheers.)

Brigadier-General Cockerill.—On that point of order, Mr. Chairman, are we not here to discuss the case of General Dyer? What is the relevancy of these remarks to that?

The Chairman called on Mr. Montagu to resume his speech.

Mr. Montagu.—If any of my arguments strike anybody as irrelevant—

Mr. Palmer.—You are making an incendiary speech.

Mr. Montagu.—The whole point of my observations is directed to this one question, that there is one theory upon which I think General Dyer acted, the theory of terrorism and the theory of subordination. (Cheers.) There is another theory, that of partnership, and I am trying to justify the theory endorsed by this House last year. I am suggesting to this House that the Act of Parliament is useless you enforce it both in the keeping of order, and in administration. (Cheers.) I am trying to avoid any discussion of details which do not to my mind affect that broad issue.

I am going to submit to this House this question, on which I would suggest, with all respect, they should vote: Is your theory of rule in India the ascendancy of one race over another, of domination and subordination—(Hon. Members—"No")—or is your theory that of partnership? If you are applying domination as your theory, then it follows that you must use the sword with increasing

severity—(Hon. Members.—“No”)—until you are driven out of the country by the united operation of the civilised world. (Cheers and interruption.) (An Hon. Member.—“Bolshevism”) If your theory is justice and partnership, then you will condemn a soldier, however gallant (Mr. Palmer.—“Without trial.”) who says that there is no question of undue severity, and that he is teaching a moral lesson to the whole country. That condemnation, as I said at the beginning, has been meted out by everybody who has considered this question, civil and military. As far as I know, no reputable Indian has suggested any punishment, any vindictiveness, or anything more than the repudiation of the principles upon which these acts were committed. I invite this House to choose and I believe that the choice they make is fundamental to a continuance of the British Empire and vital to the continuation, permanent I believe it can be, of the connexion between this country and India. (Cheers.)

Sir Edward Carson—the Hero of Ulster

Sir E. Carson.—I think upon reflection, that my right hon. friend who has just addressed the House will see that the kind of speech he has made is not one that is likely in any sense to settle this unfortunate question. (Cheers.) My right hon. friend, with great deference to him, cannot settle artificially the issue which we have to try. He has told us that the only issue is as to whether we are in favour of a policy of terrorism and insults towards our Indian fellow subjects, or whether we are in favour of partnership with them in the Empire. What on earth has that to do with it? (Cheers.) (Lieutenant Commander Kenworthy.—“Everything.”) I should have thought that the matter we are discussing is so grave both to this country and to our policy in India that we might, at all events, have expected a Minister of the Crown would have approached the matter in a much calmer spirit than he has done (Cheers.)

An Hon. Member.—He ought to resign.

An Hon. Member.—So should Ulster. (Interruption.)

The Chairman.—All round the House there seems to be a lack of understanding as to the seriousness of this matter. Let me remind the House that this is the first occasion on which we have had these Indian Estimates—that is to say, the salary of the Secretary of State—by deliberate act of the House, and for public reasons—put on the British Estimates, and we ought, I think, to recognise that occasion. (Cheers.)

Sir E. Carson.—If I thought that the real issue was that which was stated by my right hon. friend, I would not take part in this debate. There would be no dissension from the proposition that

he has laid down in this House. (Cheers.) But it does not follow because you lay down a general proposition of that kind that you have brought those men, on whom you are relying in extremely grave and difficult circumstances as your officers in India, within the category that you yourself are pleased to lay down. As to whether they do come within those categories is the real question. My right hon. friend begs the question. (Cheers.) After all, let us even in the House of Commons, try to be fair, some way or other, to a gallant officer of 34 years' service—(Colonel Wedgwood—Five hundred people were shot)—without a blemish upon his record, and whatever you say, and mind you this will have a great deal of effect on the conduct of officers in the future as to whether or not they will bear the terrible responsibility, which they have not asked for, but which you have put upon them—we may at least try to be fair and to recognise the real position in which this officer is placed. (Cheers.) So far as I am concerned, I would like, at the outset, to say that I do not believe for a moment it is possible in this House, nor would it be right, to try this officer. (Cheers.) To try this officer, who puts forward his defence as I saw it for the first time an hour ago, would be a matter which would take many days in this House. Therefore, you cannot do it; but we have a right to ask: Has he ever had a fair trial? and to put this further question before you break him and send him into disgrace: Is he going to have a fair trial?

You talk of the great principles of liberty which you have laid down. General Dyer has a right to be brought within those principles of liberty, and he has no right to be broken on the *ipse dixit* of any Commission or Committee, however great, unless he has been fairly tried—and he has not been tried. (Cheers.) Do look upon the position in which you have put an officer of this kind. You send him to India, to a district seething with rebellion and anarchy. You send him there without any assistance whatever from the civil Government, because the Commission have found that the condition of affairs was such in this district that the civil Government was in abeyance, and even the magistrate, as representing the civil power, who might have been there to direct this officer, had gone away on another duty. I cannot put the matter better than it was put before the Legislative Council of India on September 19 last by the Adjutant-General of India:—"My Lord," he said, "my object in recounting to this Council in some degree the measures taken by the military authority to reconstitute civil order out of chaos produced by a state of rebellion is to show there is another side to the picture, which is perhaps more apparent to the soldier than to the civilian critic." Now

mark this: "No more distasteful or responsible duty falls to the lot of the soldier than that which he is sometimes required to discharge in aid of the civil power. If his measures are too mild he fails in his duty; if they are deemed to be excessive, he is liable to be attacked as a cold blooded murderer. His position is one demanding the highest degree of sympathy from all reasonable and right-minded citizens. He is frequently called upon to act on the spur of the moment in grave situations in which he intervenes, because all the other resources of civilians had failed. His actions are liable to judged by *ex post facto* standards, and by persons who are in complete ignorance of the realities which he had to face. His good faith is liable to be impugned by the very persons connected with the organisation of the disorders which his action has foiled. There are those who admit that a measure of force may have been necessary, but cannot agree with the extent of the force employed. How can they be in a better position to judge of that than the officer on the spot? It must be remembered that when a rebellion has been started against the Government it is tantamount to a declaration of war, and war cannot be conducted in accordance with standards of humanity to which we are accustomed in peace." (Cheers.) That was a statement of the position of General Dyer. He went to Amritsar on April 10, and found the place and all the great towns in the immediate neighbourhood in a state of rebellion. On April 11 and 12 murders of officials and bank managers were rife. The civil power had to abandon its functions, and he was asked to make up his mind as best he could how to deal with the situation. Now he is to be broken because it was said that he made up his mind wrongly.

"Armchair Politicians"

The armchair politicians in Downing Street (cheers) had, no doubt, a very difficult task to perform. I do not contend that in no case should they overrule what an officer had done in the spot, but they ought to try to put themselves in the position of the man whom they asked to deal with difficult circumstances. That officer had to decide whether the occurrence was a riot, or an insurrection, or a rebellion, or a revolution, or part of a revolution. There is a great deal to show, even on the face of the report, that it was at all events the precursor to a revolution. Different rules officially laid down were applicable to each of those different matters. What is the error of judgment? It is admitted that he acted in perfect good faith and in most difficult circumstances with great courage and great decision; but the fault found with him is that, while he thought that the circumstances necessitated that he should teach a lesson to the country all round, the Committee thought that he ought

to have dealt with it solely as a local matter. That is the difference"—exclaimed Sir Edward Carson,—and that for an officer who had done his best was to be broken after 34 years of honourable service, to be broken, although the authorities had to admit that the action for which he was broken might have saved a most bloody outbreak in that country which might have caused the loss of thousands of lives, and might have saved the country from a mutiny in comparison with which the old Mutiny in India would have appeared small. Continuing Sir Edward said that admitting that General Dyer did commit an error of judgment, was it such that he alone ought to bear the consequences? (Hear, hear.) If they laid down for British Officers who were placed in difficult situations the doctrine that before they acted, no matter what state of affairs surrounded and confronted them, they must sit down and ask themselves what would Downing-street think, and what would the House of Commons say to them when they had been stirred up six months afterwards, and if they made scape-goats of them because of an *ex post facto* statement of the events, they would never get officers to carry out their duties. (Hear, hear.)

The most extraordinary part of this case was as to what happened immediately after the incident. The Secretary for India had said that nobody in authority approved of General Dyer's action. The General's statement of his case showed that on April 15 his Divisional Commander conveyed his approval, and the Lieutenant-Governor agreed with the Divisional Commander. Later, when he was sent on a special mission, he expressed a wish to be free from anxiety as to whether his action at Amritsar had been approved, and was assured by a superior officer that if it had not been approved he would have heard about it long before that time. This officer went on day after day in more and more difficult position after he had carried out his work at Amritsar. He was promoted to a higher command, and not only that, but he received the thanks of the native community as having saved the situation. When the agitation began everything took a different turn, and the extraordinary part of it all was that during all those six months, the Secretary of State never even knew the truth of the details. That was really a most extraordinary and unfortunate matter. He never took a single step until the agitation broke out in India, when the situation had been practically saved. If there was anything to be investigated and if there was punishment to be meted out, it ought to have been immediate, not only in justice to General Dyer, but in justice to the Indian people. Was there ever a more extraordinary case than that of a man who came forward and told you: I won the approval of my

Divisional Commander and the Lieutenant Governor of the Province. I was given promotion, I was sent to do more and more difficult jobs, and eight months afterwards, you tell me I shall never again be employed because I have disgraced myself by inhumanity and an error of judgment?" (Cheers.)

Continuing Sir E. Carson said that he wondered how many members of the House and of the Government were really following out the conspiracy to drive the British out of India. He should say nothing of his own country; it was all one conspiracy. It was all engineered in the same way and for the same object. He held in his hand a document which was sent him by somebody in America a few days ago, and it went through the whole of this case in its own peculiar way. It spoke of England as losing hold of Asia, and said: "Arms are lacking it is true, but India has the will and the determination to expel England."

"If," continued Sir Edward, "that is true—and I am not arguing the causes or the policy of the Secretary of State in trying to alleviate the situation there by the Act passed last year—all these matters are outside the domain of the soldier. But for Heaven's sake, when you put a soldier into these difficult positions, do not visit upon him punishment for attempting to deal to the best of his ability with a situation for which he is not in the slightest degree responsible. (Cheers.) If he makes an error of judgment, approach it with the full idea that if he is *bona fide* and you can see it was impossible for him in the circumstances to have calmly made up his mind in the way you would do, then you may censure him, but do not punish him. (Cheers.) I should like to ask my right hon. friend, if men are to be punished for an error of judgment such as occurred in this case, how many of those right hon. gentlemen would now be sitting on the Treasury bench. (Loud cheers.) I hope we may not get off on false issues."

Mr. Churchill (President, Army Council).—I shall certainly endeavour to follow very carefully and strictly the advice my right hon. friend has given, that we should approach this subject in a calm spirit, avoiding passions and attempts to excite prejudice. Members ought to address themselves to the subject with a desire to do to-day what is most in accordance with the long view of the general interests of the British Empire. There has not been for many years a case of this kind which raised so many grave and wide issues, or in regard to which a right and wise decision is so necessary. There is the intensity of racial feeling which has been aroused on both sides in India, and every word we speak ought to have regard to that. (Hear, hear.) There are the difficulties of military officers, who in these turbulent times have been, or are likely to be, called upon to handle

their troops in the suppression of civil disturbance; there are the requirements of justice and fair play towards an individual (cheers); and there are the moral and humanitarian conceptions involved. All these combine to make the task of the Government and of the Committee one of exceptional seriousness, delicacy and responsibility."

Dealing first of all with the action of the Army Council, for which he accepted full responsibility, Mr. Churchill explained that the conduct of a military officer might be dealt with by three perfectly distinct ways. First of all, he might be removed from his employment, relegated to half-pay, and told that he had no prospects of being employed again. From the humble lance-corporal who reverted to a private by a stroke of the pen, if the colonel thought he would prefer some other subaltern, up to the highest general or field-marshal, all officers were amenable to this procedure in regard to the appointments which they held. The procedure was hardly ever challenged, and it was not challenged by General Dyer in his statement. The procedure was accepted with soldierly fortitude, because it was believed, on the whole, that the administration of these great responsibilities was carried out in a fair and honest spirit. Under this procedure the officer reverted automatically to half-pay, and in a very large proportion of cases, having reverted to half pay, he applied to be placed on retired pay, because, especially in the case of senior officers, retired pay was often appreciably higher than half-pay. The second method was of a more serious character, and affected, not the employment of an officer, but his status and his rank. Here, it was a question of retiring an officer compulsorily from service, or imposing on him some reduction or forfeiture in his pension of retired pay. The third method was of a definitely penal character. Honour, liberty, life were affected. Cashiering, imprisonment, or the death penalty might be involved, and for this third category, of course, the whole resources and protection which the judicial procedure of lawful tribunals and British justice accorded to an accused person were brought into being. After asking the Committee to bear these distinctions very carefully in mind, Mr. Churchill said that it would be seen that General Dyer was removed from his appointment by the Commander-in-Chief in India, that he was informed, as hundreds of officers had been informed, that there was no prospect of further employment for him under the Government of India, and that in consequence, he reverted automatically to half-pay. These proceedings were brought formally to the notice of the Army Council by a letter from the India Office, which recommended further that he should be retired from the Army, and by a telegram

from the Commander-in-Chief in India, which similarly recommended that he should be ordered to retire. That was about a month ago.

At a latter stage it was brought publicly to the notice of the Army Council by the published despatch of the Secretary of State for India, which stated that the circumstances of the case had been referred to the Army Council. The first step taken by the Council was to direct General Dyer—they had an application from him that he desired to take this course—to submit a statement of his case for their consideration. They felt that if any action was to be taken against him, apart from removing him from his appointments and employment in India, it was essential that he should furnish a statement in his own behalf and should be judged upon that and not upon evidence which he had given as a witness in an inquiry before which he had been cited without having any reason to believe that he was cited as an incriminated party. If any question of retiring General Dyer from the Army was to be examined, direct statement from him in his own defence was indispensable. The conclusion reached by the Army Council, which had been communicated to the House, was reached unanimously and spoke for itself. It must be remembered, however, that the Army Council must deal with these matters, mainly, from a military point of view. They had to consider the rights and interests of officers and also to consider the effects of any decision which they might come to upon the confidence with which officers would do their duty in the kind of extremely difficult and tragical circumstances in which General Dyer and a good many other officers of the Army had in recent times been placed.

The Army Council had to express an opinion on General Dyer's conduct from what was primarily a service standpoint. Their function was one of great responsibility, but at the same time it was one of limited and special responsibility, and their conclusion in no way affected the final freedom of action of the Cabinet. He made it perfectly clear to his colleagues on the Army Council, that in assenting to the conclusion to which they came, as an Army Council, he held himself perfectly free if he thought right to and if the cabinet so decided, to make a further submission to the Crown for the retirement of General Dyer from the Army.

In explaining and justifying the decision of the Cabinet he should permit himself to enter to some extent upon certain aspects of the merits of the case. However they might dwell upon the difficulties of General Dyer during the Amritsar riots in the anxious and critical situation in the Punjab and the danger to Europeans throughout that province, one tremendous fact stood out—the slaughter of nearly 400 persons, and the wounding of probably

three or four times as many at the Jallianwalla Bagh. That was an episode which appeared to be without precedent or parallel in the modern history of the British Empire. It was an event of an entirely different order from any of those tragic occurrences which take place when troops were brought into collision with the civil population. It was an extraordinary event, a monstrous event, an event which stood in singular and sinister isolation. Collisions between troops and native populations had been painfully frequent in the melancholy aftermath of the Great War both in India and Egypt.

"I agree absolutely with the opinions quoted from the Adjutant-General in India as to the distasteful, painful, embarrassing, torturing situation, mental and moral, in which the British officers in command of troops were placed, when he was called upon to decide whether or not he should open fire, not upon the enemies of his country, but on those who were his countrymen or who were citizens of our common Empire. But there were certain broad lines by which I think, an officer in such cases could be guided. First of all the officer might ask himself, "Is the crowd attacking any thing or anybody? Are they trying to force their way forward to the attack of some building or troops or police, or are they attempting to attack some band of persons or some individual who has excited their hostility?" The second question is, "Is the crowd armed?" By armed I mean armed with lethal weapons. Armed men are in a category absolutely different from unarmed men. An unarmed crowd stands in a totally different position from an armed crowd. At Amritsar the crowd was neither armed nor attacking. (Cries of "Oh!") When I use the word "armed" I mean armed with lethal weapons, or with firearms. There is no dispute on that point. "I was confronted," says General Dyer, "by a revolutionary army." What is the chief characteristic of an army? Surely it is arms. This crowd was unarmed. There is another test which is not quite so simple, but which nevertheless has often served as a good guide to officers in these difficult situations—I mean the doctrine that no more force should be used than is necessary to secure compliance with the law. The officer should also confine himself to a limited and definite objective—that is to say, to prevent a crowd from doing some thing which they ought not to do, or to compel them to do something which they ought to do.

It would be said, Mr. Churchill continued, that it was easy enough to talk like this, and to lay down these principles here, in safe and comfortable England, in the calm atmosphere of the House of Commons or in armchairs in Downing street or Whitehall. But it was quite a different business on the spot in a great emergency, confronted with a

howling mob, with a great city or a whole province, quivering round with excitement. (Cheers.) He quite agreed. Still there were good guides, and sound, simple tests, and it was not too much to ask of our officers to consider and observe them. After all, our officers were accustomed to accomplish more difficult tasks than that. Over and over again British officers and soldiers had stormed entrenchments under the heaviest fire and had half their number shot down before they entered the position of the enemy. With the certainty of a long bloody day before them, and a tremendous bombardment crashing all around they were to be seen taking out their maps and watches, and adjusting their calculations with the most minute detail. They had been seen showing not merely mercy, but kindness to prisoners, observing restraint in the treatment of them, punishing those who deserved to be punished by the hard laws of war, and sparing those who might claim to be admitted to the clemency of the conqueror, and they had been seen exerting themselves to show pity and to help the wounded, even to their own peril. They had done all that thousands of times, and in requiring them in moments of crisis dealing with civil riots, when the danger was incomparably less, to consider these broad, simple guides, he did not think they were being taxed beyond their proved strength.

If they offered these broad, positive guides to our officers in anxious and dangerous times, there was surely one guide which they could offer them of a negative character. That was to avoid what was called "frightfulness." By frightfulness he meant inflicting great slaughter or massacre on a particular crowd of people with the intention of terrorizing, not merely the rest of the crowd, but the whole district or the whole country. We could not admit this doctrine in any form. Frightfulness was not a remedy known to the British Pharmacopoeia. Governments which had seized power by violence and usurpation had often resorted to terrorism to keep what they had stolen, but the British Empire, in which lawful authority descended from hand to hand, generation after generation, did not need such aid. All such ideas were absolutely foreign to the British way of doing things.

At the Jallianwalla Bagh the crowd was not armed, except with bludgeons, and it was not attacking anybody or anything. On fire being opened on it, it tried to run away, but it was penned up in a narrow space, considerably smaller than Trafalgar square, when one bullet would drive through three or four bodies. The people ran madly this way and that, and the firing was only stopped when the ammunition was on the point of exhaustion, enough being retained to provide for the safety of the force on its return journey.

When 379 persons had been killed, the troops, at whom not even a stone had been thrown, marched away. He did not think it was in the interests of the British Empire or Army to take a load of that sort for all time upon their back. They had to make it absolutely clear that that was not the British way of doing things. (Cheers.)

He would be told that this action saved India. He did not believe it. In the days of the Mutiny there were scarcely 45000 British troops. The British troops to native troops was one to five. Since then the British troops had been raised to 70,000 and upwards—a ratio of one to three. In addition, a whole series of terrible war inventions had come into being. There was, therefore, no need for foolish panic talk about it being necessary to produce an incident like that of Jallianwala Bagh in order to save India. Our reign in India or anywhere else had never rested on a basis of physical force alone, and it would be fatal to British Empire to try to base ourselves only upon it.

The British way of doing things had always meant close co-operation with the people of the country. In no part of the British Empire had we arrived at such success as in India. In Egypt there had recently been a breakdown of the relations between the British and the people, and we were trying to rebuild that relationship laboriously and patiently. We had plenty of force, if force were all, but what we were seeking was co-operation and goodwill. If such a rupture between the Government and the people had taken place throughout the Indian Empire, it would have been one of the most melancholy events in the history of the world. That it had not taken place was, he thought, largely due to the constructive policy of his His Majesty's Government. His personal opinion was that the conduct of General Dyer at Amritsar deserved not only loss of employment and the measured censure which the Government had pronounced, but also to be marked by a definite disciplinary act, namely his being placed compulsorily on the retired list. It was quite true that General Dyer's conduct had been approved by a succession of superiors above him, who pronounced his defence, and that at different stages events had taken place which it might well be argued amounted to virtual condonation so far as any penal or disciplinary action was concerned. (Hear, hear.) General Dyer might have done wrong; but, at any rate, he had his rights, and he did not see how, in face of such virtual condonation, it would have been possible, or could have been considered right, to take disciplinary action against him. For those reasons the Cabinet found themselves in agreement with the conclusions of the Army Council, and to those moderate and considerate conclusions they confidently invited the assent of the House. (Cheers.)

Mr. Asquith (late Premier) said that the issue had been reduced to a very narrow point. Sir E. Carson had not attempted to justify General Dyer's action on the merits. He had suggested that General Dyer had not a trial. To say, in all the circumstances that had taken place, that he had not had a fair hearing and ought to have another opportunity of saying whatever he could say in his own defence, seemed to be an abuse of language. (Hear, hear.) It was undoubtedly the case that he had been commended at the time by his superior officer and by the Lieutenant-Governor. Whether they were then in full possession of the facts, he did not know; whether they were impartial judges in the circumstances, he did not know. There was much of feverish, hetic excitement in the atmosphere. They had very little opportunity of making dispassionate inquiry into the case. He had heard nothing from the right hon. and learned member (Carson) which could in any way impugn the correctness and force of the decision concurrently arrived at by so many authorities. The case was as simple a case as had ever been presented in the House.

It was deeply to be deplored and reprehended that the civil authority abdicated its function and handed over something very much in the nature of a *carte blanche* to the General in command. It was the worst example, and in India particularly, it was a very bad example. The civil authorities were guilty of a gross dereliction of duty in divesting themselves, or trying to divest themselves, of their functions, and handing the whole thing over to the discretion of the military authorities. He could not help thinking that if the civil officers at Amritsar had, at the beginning of the transaction, taken a proper sense of the duty which the law of their office imposed on them, and had controlled and directed, or at any rate supervised, subsequent military operations, it was quite possible that that terrible incident of the 13th might never have occurred. (Cheers). It was only fair and just to General Dyer to say that, in what he (Mr. Asquith) conceived to be a most terrible error of judgment and even worse, he had not, in that very critical and responsible situation, the advantage which he was entitled to have and which the Executive ought to have given him, of the assistance and advice of the civil authority familiar with all the local circumstances, and ultimately responsible for the maintenance of order.

Coming to the actual firing on the crowd, Mr. Asquith said: There has never been such an accident in the whole annals of Anglo-Indian history nor, I believe, in the history of our Empire. (Hear, hear) To ask the House of Commons to reverse the considered decision given after hearing everything that General Dyer had to say or put forward to all these great responsible authorities, to

reverse that decision upon no new facts—to take General Dyer's statement and judge him on that—is not only to fly in the face of the presumptions of evidence and the rules of common sense and the practice of all civil and judicial tribunals, but, is something much worse than that. It is for the House of Commons to take upon itself on behalf of the British Empire as a whole, the responsibility of condoning and adopting one of the worst outrages in the whole of our history. (Cheers.) For my part, so far as I can command any authority or confidence among others in this House, it is an occasion on which I ask my hon. friends to give their hearty support to the Government in the course which they have taken. (Cheers).

Mr. Ben Spoor (a Labour Leader) said that he hoped that Mr. Montagu would have dealt at greater length with the extremely grave situation in India and the result of the happenings of last year. He, Mr. Spoor, and his party appreciated very much the very definite declaration of the Secretary of State with regard to the question of the Hunter report. If the spirit which infused the right hon gentleman's speech infused and directed the policy of the Government in India in the months ahead there was some chance of peaceful relations being established between India and England. He would be extremely sorry if he thought that people outside the House of Commons, whether British or Indian, believed that the sentiment of which they had evidence that afternoon represented in any real degree the feeling of the people of that country. A fortnight ago the Labour Party held a great conference and passed a resolution on that subject which some people no doubt thought was of an extreme character. It asked for the recall of the Viceroy, the impeachment of Sir M. O'Dwyer, the trial of officers against whom allegations had been made, and the repeal of repressive legislation. He believed that resolution expressed much more correctly the general feeling of the public of that country than did the exhibition they had seen that afternoon. Sir E. Carson had said: "Let us be fair to the British Officers." Yes; but also let them be fair to the hundreds of Indians who had lost their lives, and to the children who were bombed from the air by British Officers. Amritsar was not an isolated event any more than General Dyer was an isolated officer. He read from the report the evidence of an officer who had said referring to events at Delhi, that "a bit more firing would have done them a world of good." Was that a typical example of a British Officer in India? (Cries of "No.") If it was not, was that British Officer still holding office in India?

Mr Spoor claimed that the policy for which the Government of India had been responsible had contributed far more than had yet been admitted in that House to the serious situation that at present existed in that country. He therefore asked that the Viceroy and

Sir Michael O'Dwyer be dealt with in a way that would secure justice for the Indian people. India might be governed by consent; she would never again be governed by force. (Cheers.) There were three courses open to the Government. The first was that which would be advocated by those who believed that General Dyer and his colleagues had saved the country—namely, a frank approval of the head of the Indian Government, Sir Michael O'Dwyer, General Dyer, and the other officers implicated. The second course was the one which had apparently been followed up to now by the Secretary of State for India, that was to say, approval of the Indian Government and approval of Sir Michael O'Dwyer, but a condemnation of General Dyer, who, after all, was the instrument of their will. The third, and, in his view, the only logical course which was consistent with the liberal spirit which was supposed to inspire the Reforms of last year, was the aim of leading the people of India into Liberty. If this last course was followed it obviously involved the condemnation of those who had been responsible for this reactionary policy. So far as the Labour Party were concerned, they stood for this last course. He moved the reduction of the vote by £ 100.

Lieutenant-General Sir Hunter Weston as one who had served with native troops in India appealed to the Committee to exercise moderation in what they said about the regrettable occurrences in India, and with a due feeling of responsibility and of the harm that might be done by intemperate speeches on either side. There was a great danger of exacerbating feeling between the British section of the population of India and that conglomeration of different races, different religions and, indeed, of different civil nations which they were apt to class as one, as the People of India. There was undoubtedly present a certain strain in the relations between the British population in India and certain sections of the Indian races, and to still further aggravate that feeling would be to do the gravest disservice to their country. General Dyer by his record had shown himself to be a man and an officer well able to deal with threatening situations without the use of force. The evidence contained in the Report of Lord Hunter's Committee could not be used against any man in any Court of Law, either civil or military, and, therefore, it should not be used as the basis of defence or attack in that House or outside. In principle, the use of the military in aid of the civil power was the same in that country and in India. To allow anything in the nature of "frightfulness" was abhorrent to the British Nation, and therefore to the British Army. If both the Commander-in-Chief in India and the Army Council had decided that General Dyer should be relieved of his command, the Committee might be sure that he had

been treated fairly, and that no good could be done to him, to the Army, or to the country by attacking a decision made by responsible soldiers, who had the full confidence of the Army and the Nation, and had the facts fully before them and the best legal advice at their disposal.

He appealed to those who desired to defend an eminent soldier not to attack those other eminent soldiers who had to adjudicate on the case, and especially not to say anything which could be quoted, in the difficult days ahead as showing that members of Parliament approved anything which could give colour to the assertion that the British Army might be used as an instrument of oppression. Upon those members, whose sympathy with the relatives of those who lost their lives at the Jallianwala Bagh prompted them to condemn General Dyer utterly, and to call upon the Government to punish him still further, he urged moderation in the expression of their opinion, remembering that great harm might be done by their words in embittering feeling in India and adding to the difficulties of those who in the future would have to uphold law and order.

The situation with which General Dyer had to deal had been in existence for some time, and before his arrival had led to the murder of Europeans, to an assault upon an English woman, to loss of life among the natives, and to much damage to property. The terms of the written order given to him by the civil authority on his arrival on April 11, were: "The troops have orders to restore order in Amritsar and to use all force necessary. No gathering of persons nor procession of any sort will be allowed. All gatherings will be fired on." That notice was given out to several of the citizens on April 11. On the afternoon of April 13 having received notice from the Superintendent of Police that a crowd was assembling in the Jhallianwala Bagh, a park in Amritsar city, General Dyer marched to the spot, and found a huge assembly of many thousands of people, who appeared to him to be in a dangerous mood. A determined rush might easily overwhelm his little force of 50 native soldiers armed with rifles, and 40 armed only with kukris. General Dyer and his little band were entirely isolated in the city. Narrow streets were behind him, his flanks and rear were open to attack, and no reinforcements were within reach. If this little band, who were the sole guardians of law and order, had been overwhelmed, there was nothing to hold in check the instigator of crime and insurrection, nothing to prevent the recurrence of the loot and murder and arson which had raged in the city only three days before. (Hear, hear.) Any hesitation on General Dyer's part, any failure to use, and to use at once, the necessary force, might have been the spark that would light the conflagration of another mutiny.

No one who had not been placed in a similar situation should venture to condemn General Dyer. (Cheers.)

Lieutenant Colonel James said that, as it appeared to him, the question was one affecting not so much the Indian Empire as justice. When General Dyer put in his statement to the Army Council, one would have thought that the natural thing would have been to send for him and ask for oral explanations. He understood that procedure was never followed at the War Office, and he thought that alone vitiated the virtue of the appeal. Unless they could have a man face to face with the president of the tribunal they could not form a proper judgment on his case. General Dyer was faced with an unparalleled situation and the only judge of the amount of force which should be used at the moment was he himself. (Cheers.) To say that there was no evidence of a general conspiracy in India, was just as absurd as it would be to set up a board of inquiry in Ireland at the present moment, and to say that there was no evidence of constables being killed, for the simple reason that they had not been caught. (Laughter and cheers.) He asked hon. members to stand for the cause of justice, fair play and moderation towards the great mass of the loyal Indian peoples, who would be the first to suffer if they in that House did not stand by their own people. (Cheers.)

Sir W. Joynson-Hicks said he was not prepared to abdicate his rights and duties as a member of the House of Commons because of the decision of the Army Council. After all, the House of Commons was the last Court to which General Dyer, and other persons aggrieved by the action of any Government Department, could come. (Cheers.) Hon. members had to decide one way or the other. A more disastrous speech than that of the Secretary of State for India had never been made in that House. (Cheers.) He (Sir W. Joynson-Hicks) had just returned from a visit to India and to Amritsar, and the opinions he was expressing as to the events which took place there were held by at least 80 per cent. of the Indian Civil Service throughout India and 90 per cent. of the European people. (Hear, hear.) The Secretary of State for India had, for some time past, entirely lost the confidence of the Indian Civil Service. (Cheers.) That was a very serious matter, and the speech of the Secretary of State that afternoon would have utterly destroyed any little shreds of confidence which might have been left to him, not merely in the minds of the Indian Civil Service, but in the minds of the British Army in India. (Cheers.) It was difficult, in the face of that attack, to make a moderate speech, which was merely one long vituperation of General Dyer and his action in India, and one long appeal to racial passions. (Cheers.) He was prepared to say that General Dyer did right. (Cheers.) Miss

Sherwood, the lady missionary who had been so brutally attacked and left for dead, had written: "I am convinced that there was real rebellion in the Punjab, and that General Dyer saved India." (Cheers.) Another wrote: "I strongly protest against injustice being done to General Dyer, who, I believe, did his duty and saved us from unspeakable horrors. In such a crisis only those on the spot can judge of what action can be taken." (Cheers.) The whole of India was in revolt and rebellion in the early part of April, 1919. He noticed in *The Times* newspaper that morning a leading article pleading for moderation, and asking why it was not possible to adopt the same method at Amritsar as had been used in that quelling of the mob at Lahore on April 1910 and '12. If the leader writer in the *The Times* had read the evidence given before the Commission he would have seen that the General, who was in charge at Lahore, stated that he considered the quieting of Lahore was due 60 per cent to the action of General Dyer at Amritsar. The action at Amritsar of General Dyer spread all through the Punjab and particularly quieted the town of Lahore. In Amritsar itself all the facts showed that General Dyer was faced with a rebellion. If there was no rebellion, if there was merely a local riot, it was quite possible that General Dyer might be convicted of inhumanity, but if there was a rebellion, as he held there was, then a section of the people were at war with General Dyer. He had talked to men on the spot, both native and English, and native officials supported General Dyer to the utmost in the action he was taking, and they all testified that the inhabitants knew of the proclamations and the danger they would incur if they did not heed them.

It was not for those in the House, who did not know the facts and had not the knowledge that General Dyer had and with all the responsibility on his shoulders, to dare to say that he should have abstained from shooting in the way he did. (Cheers.) When it was all over, was General Dyer assailed by the people? Not at all; they came in their thousands, and thanked him for the action he had taken. (Cheers.) He was made a Sikh, and was employed to march round the whole district, and pacify it—this blood-thirsty man! And let there be no mistake about it—General Dyer was beloved by the whole of the Sikh nation!! (Loud cheers.) Had he been merely concerned with the disposal of a crowd, his action, he agreed, was uncalled for and unnecessary, but if his action was the only way to put down rebellion, no one in that House was justified in condemning him. He called attention to a speech delivered by an Indian lady (Naidu) at a meeting held in London on June 3, who declared that at Amritsar Indian men and women were stripped naked, flogged, and outraged. He represented that to General Dyer, and he

was authorised to say that as far as his knowledge went the statement was totally untrue. What was said at this meeting was the kind of incitement to hostility against our rule in India which came from the extreme section of the Indian community. In Peshawar he had seen posters of an extreme character inciting men to rebellion. On behalf of the Englishmen in the Army and the Civil Service in India who upheld the British flag in very great difficulties, and many of whom, with their wives and children, were scattered over the country, miles and miles away from any help, Mr. Joynton-Hicks made a fervent appeal to the House to trust the men on the spot.

Brigadier-General Surtees urged hon. members to remember the effect that speeches and decisions in that House would have upon natives in all parts of the Empire. If British prestige were destroyed the Empire would collapse. In 1865 Governor Eyre saved the European inhabitants of Jamaica by prompt and strong action, for which he was persecuted as General Dyer had been. General Dyer had a similar idea in his mind. Europeans on the spot were the best judges of the situation. "We could not surrender India even if we wished to do so, yet if a plebiscite were taken tomorrow as to who should rule India the result would be against us. If we did not hold India by moral suasion we must hold it by force, possibly thinly veiled, but undoubtedly by force." He believed that General Dyer, by his action, saved the Empire from serious danger. As Mr. Palmer had rightly said they had a most deplorable speech that day from the Secretary of State for India which would go out to our great Dependency as an encouragement to lawlessness and those forces of disorder which every sane and patriotic Englishman was anxious to see laid to rest in India. His attitude would feed the flames of antagonism against him in a manner which, in his more reserved moments, he would sincerely regret.

Lieutenant Commander H. Young unreservedly supported the action of the Government of India and the Secretary of State. They were dealing simply with a question of the exercise of professional discretion by a soldier. He would fain take every point in favour of General Dyer up to the critical moment of the opening of fire at Amritsar and assume that he was right in opening fire. But as to the continuance of the firing, it was common ground that the shooting was more than necessary to disperse the meeting. It was carried on for another purpose—for the sake of intimidation. That was an extension of the simple, definite, well established rule of the use of minimum of force for the immediate circumstances which ought not to be countenanced either in the interests of officers in charge, for it extended their area of judgment

from the situation immediately before them to the situation in its widest possible aspect, or in the interest of the civilian population, for whom the rule was the charter for the protection of their lives, liberties, and safety from unduly violent action.

Colonel Wedgwood said the question of importance was whether India was to remain part of the British Empire or not. The Empire could only be preserved by the co-operation of Indians. General Dyer put the safety of English men and women in Amritsar before national honour. That was wrong. His charge against General Dyer was not that he had shot down Indians, but that he had given English history the greatest blot it ever had since the burning of Joan of Arc. Women and children were of no importance. The first thing was English honor. If once India went Sinn Fein it would be all up with the British connection. Rule by force of caste had come to an end in this world. A military raising in India was absolutely impossible under modern conditions. They must take a broad view of the British Empire and turn down for ever the idea that it should be a replica of the Roman Empire. Hon. members would recollect how Macaulay's Lay's ended :

"Then shall be great fear on all
Who hear the mighty name of Rome."

That might have been attractive when we were younger, but it would not do now. In the end they would come to a smash if they failed to utilise their great power of helping other nations.

Mr. R. Gwynne said that the Secretary for War's error of judgment in Gallipoli issued in disaster, while General Dyer's error of judgment according to the Report of the Commission was at any rate successful. But there was no sympathy for him on the part of the right hon. gentleman who condemned him wholesale. As to the Secretary of State for India he had misinformed the House and had repeated things which were not true; his sympathies had been with those who were opposed to law and order in India, and his prejudices had been against those who had been trying to maintain law and order. Having then traced the course of events in India he asked why the right hon. gentleman did not inform himself when he saw the full report in August, the report on which he now condemned General Dyer.

Mr. Montagu—Does the hon. gentleman suggest that I saw the report in August? If he does, I say it is not true.

Mr. Gwynne.—I asked the right hon. gentleman why he did not inform himself.

Mr. Montagu.—I did not deal with the subject. I am sure the right hon. gentleman does not want to misrepresent me. I thought I had already informed him that I had called for no report from the

Government of India, because in May immediately after the occurrence had happened, we decided to appoint a Committee. I thought then that the best thing to do was to await the findings of that Committee.

Mr. Gwynne, continuing, said that the Government of India declared in their report that General Dyer was justified in the action he had taken, and that he would have been guilty of negligence of duty if had done otherwise. (Cheers) Did not the Secretary for India know of that report? Was he not consulted? If he were not consulted, he was not justified in continuing in office. (Loud cheers) The right hon. gentleman had placed the Government of India in a hopeless position. In their report they said one thing, and the right hon. gentleman, when pressed by his agitating friends, got them to reverse their decision. (Cheers.)

Mr. Montagu.—Does the hon. member say I brought pressure to bear upon the Government of India? *

Mr. Gwynne.—Their action is amazing if you did not. Why did they suddenly turn round? (Loud cheers.)

Mr. Montagu.—I deny absolutely that I put any pressure upon the Government of India. They waited to receive the Hunter Report, then made their decision and communicated it to me. The hon. gentleman is making many foul charges against me which are not supported by the facts. (Cheers.)

Mr. Gwynne.—Charges are foul when they are made against civilians, but they are not foul when made against soldiers. (Loud cheers) General Dyer is disgraced after 34 years' service without trial. (Cheers) When the right hon. gentleman is criticised in this House he says the charges are foul. At any rate he is not losing his office. I wish he were. (Loud cheers.) If the right hon. gentleman continued in this way, we were going on the right road to lose India. The most graceful thing he could do would be to resign. (Laughter and cheers.) The men who were dependent on him for justice and representation in that House had not been looked after as they had a right to be.

Mr. Clynes (Labour Leader) said that while he thought the Government had gone the right way, so far as they had gone, the Labour members wished to express their appreciation of the tenor of the speech of the Secretary of State for India that day. They felt the minimum of reparation which the people of India were entitled to demand had not been made, and therefore they would go into the lobby, not for the purpose of reducing the Secretary of State's salary, but to protest against the action of the Government in taking no step to remove those conditions of repression which provoked those incidents of disorder and commotion such as

led up to the unhappy Amritsar affair. If the issue to be decided in the lobby was the murder of these hundreds of Indians and injury to thousands of them under conditions which sent them to their doom like cattle he felt that they ought to carry with them a very large number of members who did not belong to the Labour Party at all.

Mr. Bonar Law's Reply

Mr. Bonar Law said he thought that his right hon. friend (Mr. Montagu) was in a false position (Cheers,) for the reason that as he had said the subject was too large to make it right for him to answer personal charges, and it was not possible for him to answer except at the expense of his (Mr. Bonar Law's) taking no part in the debate. He was quite willing to give place to him (Montagu) but he thought it would not be wise (Cheers and laughter.) The House of Commons was always fair. It was entirely wrong to suppose that his right hon. friend was especially responsible without the conjunction of the Cabinet for the policy in India. The first step of the new policy in India was taken before he became Secretary of State.

Apart from this incident the debate had been a painful one for him. It was one of the most difficult subjects which either the House of Commons or individuals could attempt to deal with. It raised issues of precisely the same kind as were raised in regard to Governor Eyre very long ago. The Government had to look at the case, not from one side or the other, but to judge it as fairly as they could and come to a decision which they thought best in all the circumstances for the Army as a whole. This they had done. When he first heard of the occurrence he had that feeling of indignation which had been expressed by many hon. members who took one view of the subject. When it became necessary for the Government to take a decision he had to examine the evidence available, and while on the main issue his opinion had not changed that examination had made him more sympathetic with General Dyer in the difficulties in which that officer was placed. The Hunter Committee, in their Report, said that what was taking place was not a riot but a rebellion. He did not think that Mr. Asquith had done justice to the difficulties of General Dyer. General Dyer's proclamation had been followed almost immediately by the issue of a proclamation by the rebels urging the people to attend the meeting. General Dyer had the right to consider every one at the meeting guilty of open rebellion, and that they were probably there for the express purpose of flouting the Government and showing that the Government could not maintain its power in the city. General Dyer also knew that the British in the city were very few, and that the military

force was very small. He knew there was great danger and every one admitted that there was great danger of their getting entirely out of hand. He had to take all that into account. He had spoken, he hoped, fairly of his view of General Dyer's action but that did not in the least alter his opinion that the action was entirely wrong. The Government was bound to declare that in its opinion it was wrong. (Hear, hear.) General Dyer had himself admitted that though the bulk of the people were there to flout the Government, there might have been many who were not aware of it. The Hunter Commission said General Dyer would have been justified if there was danger of an attack. (Hear, hear.) But General Dyer had said that was not what had influenced him. He was determined before he came there to shoot right away. When a soldier was in the position of representing Martial Law as it was then, if it would have been right from the point of view of the protection of his force to give notice before firing, it was surely his duty also to think of the moral position of the Government. (Cries of "Oh!" and cheers.) Surely it was right to think not only of the immediate military effect, but of the effect on India as a whole. The next ground on which the Hunter Commission criticised General Dyer was that he continued firing long after he should have stopped. With every desire to put himself, so far as he could, in General Dyer's place he agreed with that criticism, and there was no possible justification that he could see for the continuance of the shooting for the length of time that General Dyer did.

It was quite true that probably most of the people who were in the Jallianwala Bagh, almost like sheep in a pen, were there in rebellion, and that if they had the courage and had chosen, they might have rushed the small force, but General Dyer had stated definitely that that was not an element which weighed with him in the feat. His defence was quite different, and it was that defence—he was going to put this solemnly to the House—which above everything else made it necessary for this Government or any Government of this country, if it was to retain the reputation it had always had, to repudiate his action. (Cheers.) General Dyer's defence was that what he did was to produce a moral effect upon the Punjab. If the Government once accepted the principle that in inflicting punishment on anyone they were to consider not merely what the persons were guilty of, but what the effect of the punishment would be on other people, there would be no end to it. (Cheers.) It was a principle which was opposed to the whole history of the British Empire and a principle which would never be justified, (Cheers.) He was very sorry that the subject had been treated with so much heat. The Government had tried to deal with it fairly and

justly. There were deadly enemies of British rule in India who made charges which every honest man here and in India knew to be false. Of that he was not afraid, but he should be afraid of doing anything which might give them the right to say that we treated Indians less fairly than we treated other subjects of the Crown. (Cheers.)

The Divisions

The Committee divided on the Labour amendment to reduce the vote for the Sec. of States Salary by £100. It was rejected by 247 votes to 37—a majority of 210. Many members did not vote. The supporters of General Dyer, who occupied the four benches below the gangway on the Opposition side, and also members on the Government benches, remained in their places during the division. The minority was composed of Labour representatives and Independent Liberals.

After the numbers were announced, Sir E. Carson rose on the Government side, and, amid loud cheers, moved another amendment to reduce the vote by £100. The Committee divided, and then voted :—

For the reduction	129
Against	230
Rejected by a majority against the reduction			..	—101

The O'Dwyer Outburst .

The Notorious Letter

The following is the full text of the letter written by Sir Michael O'Dwyer to the English Press :—

The report of the Hunter Committee, with the views of the Government of India and the orders of the Home Government, has now been published. For the first the broad facts which were long known in India, but were not generally known here are becoming public, and are exciting acute controversy. As head of the Punjab Government at the time I was closely associated with the measures taken to repress what is now admitted to have been a serious rebellion. I gave evidence in January last before the Hunter Committee in India. But there are many matters, arising out of their report and the Government of India despatch which vitally affect, not only myself, but also the good name of the people of the Punjab, and the civil and military officers concerned in the suppression of the disorders, some of whom have been singled out for censure and punishment. I therefore applied to the Secretary of State for India to be given a hearing before the Cabinet Committee which was dealing with these matters, before a decision was arrived at. My request was not acceded to. The case is now pending before the final tribunal, the British public, and will soon come up for discussion before their representatives, the British Parliament ; and I think it is my duty to put before them some of the main points I would have put before the Government. This is the more necessary as, I understand, my evidence before the Hunter Committee has not been made public, though I asked for its publication.

Constitution of the Committee.

The first point relates to the constitution of the Hunter Committee. The majority of five (all Europeans) consisted of two judges, a general, a member of the Civil Service, who had never served in an Indian province, and a member of a Chamber of Commerce. All of them were able and impartial men ; but none of them had ever served in the Punjab. Moreover, though they were sitting in judgment on administrative and executive actions, none of them had ever exercised administrative or executive authority in an Indian province. They themselves would probably be the first to admit that their investigations would have been more fruitful and their conclusions more weighty, if an officer of administrative experience in India had been associated with them.

What would be thought of a commission of inquiry into the official act of a judge on which there was no member with legal or judicial experience, or of an inquiry into the professional conduct of a medical man in which the medical profession was not represented?

The minority was composed of three Indian lawyers, belonging to the very class which, as the records of the judicial proceedings establish, was largely responsible for creating the situation that led to the disorders, and which in several cases actively participated in the rebellion. One of them was a leading Bombay advocate (since appointed to the Bombay High Court) who had been refused permission by the Martial Law authorities to come to the Punjab during the rebellion to defend one of the accused.

Hon. Pandit Jagat Narain

Another was a leading politician in an adjoining province who in September, 1917, had in a public speech violently attacked the Punjab Government and myself as its head. When some of his statements were challenged by the Punjab Government, and shown to be absolutely without foundation, he admitted that he had based them on wrong information, and reluctantly agreed publicly to withdraw them. The local government in whose jurisdiction he was residing was, however, unwilling to hold him to his offer, and so the matter was left in the middle of 1918.

In 1919 this gentleman was, after reference to the Government of his province, nominated to the Hunter Committee. Directly I arrived in India in December last I pointed out to the Government of India that, whatever his other qualifications might be he could not be regarded as impartial. I then learnt that my successor in the Punjab Government had made a similar representation when the appointment was notified. No action was however, taken. The question was raised by Lord Sydenham in the House of Lords on March 13 and the reply given was that "the appointment of (I omit the name) was decided after consultation between the Government of India and the Secretary of State, and I do not think that (he) was identified with the highly inaccurate speech cited by the noble lord, nor can I speak positively as to the identification." There should, however, have been no doubt as to the identification after November last.

As might have been expected, this gentleman showed himself throughout the proceedings in the role rather of prosecuting counsel in regard to the officers of Government than of an impartial investigator, and his attitude was the subject of bitter comment in the Press. He took a substantial share in the framing of the minority

report, which has obviously influenced the Government of India and the Home Government in their conclusion, especially in regard to the conduct of officers exercising martial law.

Can it be contended that a Committee, which contained no member of Indian administrative experience, and at least one member whose bias against the administration chiefly concerned had already been exhibited, fulfils the conditions stated in paragraph 22 of the Government of India despatch, viz. that the Committee "should be a body of commanding weight and high judicial experience, in which perfect confidence could be reposed by the public both at home and in India?"

Scope of the Inquiry

The next point to be noticed is the scope of the inquiry. It is a matter of common knowledge that the agitation against the Rowlatt Act led to the first outbreak at Delhi on March 30, 1919. This was followed, after a short interval, utilised to promote an intense anti-Government and anti British feeling, by simultaneous outbreaks in various places in Bombay and the Punjab, and also in Calcutta, on or about April 10. The rebellious movement spread north through the Punjab along the railway into the Frontier Province, where, at the end of April and early in May it synchronised with the Afghan aggression and the tribal risings, both of which, there is ample evidence to show, were directly encouraged by the action of the revolutionaries in the Punjab. A serious outbreak at Peshawar was averted only by the prompt measure taken to surround the city with troops and remove the local ringleaders, who were being supplied with money and incendiary literature by the Amir's agent. Many think that the Peshawar manifestations were the most serious of all; and the Chief Commissioner wrote to me at the time that a serious outbreak there was averted not only by the action taken locally, but by the news of the prompt suppression of the rebellion in the Punjab. Yet the outbreaks at Calcutta and Peshawar were by the terms of reference, excluded from the consideration of the Hunter Committee.

Delay in Starting the Inquiry.

Another vital point is the delay of six months between the suppression of the disorders and the commencement of the inquiry. That delay seriously prejudiced the investigation. It gave opportunities, of which the extremist agitators from outside made the fullest use, to pervert the real facts, intimidate witnesses, overawe the loyal supporters of Government to spread abroad the impression that there had been no serious disturbances, and that such minor outbreaks as had taken place were due to the repressive measures of

a harsh Government which had pursued a policy of compulsion in regard to recruiting and the War Loan, and a savage vindictiveness towards the educated classes, whom it had antagonised. This vigorous counter-offensive, pushed with great skill and persistence, had produced extraordinary results, both in India and here, by the time the Hunter Committee began its work.

Had the inquiry started directly after the disorders were suppressed the true facts could have been fully and easily ascertained. Lord Sydenham's letter in the Times of June 1, 1920 brings out how at the middle of May 1919, when the memory of events was still fresh, the feeling of all classes in the Punjab, as expressed in their leader's addresses was one of intense relief at the prompt suppression by the effective methods of martial law, of outbreaks which threatened to involve the whole province in bloodshed and which many of them regarded as the result of an "organised conspiracy." It may be noted here that both Mr. Gandhi and Mrs. Besant used similar language at the time. But, as the memory of the horrors from which they had been saved grew faint, as the forces of agitation and intimidation came into operation, and the policy of government towards the promoters of rebellion showed a violent alteration, the views of the weak or wavering changed. A leading Mahammedan gentleman in the Punjab in May, 1919 took a prominent part in presenting an address from the Mohammedans of the province to the Lieutenant-Governor, stating that the riots and disturbances were the result of an "organised conspiracy," but that "the situation was soon got well in hand by using the speedy and effective methods of martial law; and peaceful life is once more possible for the law abiding citizens of our chief towns." In May, 1920, this same gentleman, now a member of the Government of India, considers (see paragraphs 21 and 36 of the Government of India Despatch) that "there being no organised or preconceived conspiracy to subvert the British rule behind these disturbances there was no open rebellion as alleged and no justification in consequence for the proclamation of martial law." He has also the hardihood to add that "the disturbances on and after April 14 in the districts of Gujranwala, Gujrat, and Lyallpur were the result of the commotion caused by the Jallianwala Bagh affair"

His views, as those of the only Indian member of the Government of India and the only one who dissents from his colleagues, have perhaps influenced the decision of the Home Government, and make it necessary even at this late stage to show what they are worth. Fortunately, they are not typical of those of the great mass of people in the Punjab, who, in war and in peace, have proved themselves true to their salt and true to their word.

Points not Investigated

The next point I wish to bring out is that, even within the limits allowed, the Committee's investigations did not cover all the ground. I know that in Lahore there were several witnesses of high position and reputation who had personal knowledge of the outbreaks and were ready to depose that these were the result of an organised conspiracy. They were not, doubtless owing to lack of time, given the opportunity.

But a much more important omission is this. A Committee appointed "to investigate the recent disturbances, their causes, and the measures taken to cope with them" would naturally be expected to examine the records and findings of the tribunals which tried the hundreds of men charged with the more serious offences, viz., waging war, murder, attempts to murder, robbery, arson, derailing trains, removing rails, damaging telegraph lines, wrecking postal and telegraph offices, and causing in a few days damage to the extent of over a quarter of a million sterling in the Punjab alone. There were four such tribunals, each composed of three judicial officers of experience, and two of them were presided over by judges of the High Court. The Committee, however, refused to take into consideration the findings of those tribunals, though they agree with the description of their proceedings as "lengthy, detailed, and careful."

Probably the Committee were influenced by the fact that some of these judgments were under appeal to the Privy Council, which has, however, since up-held the validity of the proceedings. But the Committee's decision has shut out from their purview what many regard as the most convincing evidence of the general nature of the conspiracy. If you find similar acts of rebellion and disorder committed almost simultaneously, over places thousands of miles apart, and the *modus operandi* is in almost every case the same, surely there are strong grounds for assuming that, as Mr. Gandhi said at the time, "there were clever men behind the lawless deeds, and they showed concerted action."

The Hunter Committee may have been quite justified in their conclusion, viz., "on the evidence before us there is nothing to show that the outbreak in the Punjab was part of a prearranged conspiracy, to overthrow the British Government by force." But it is pertinent to ask—if they had considered all the evidence available, not only in the Punjab, but in other provinces (including Peshawar and Calcutta), would they have arrived at that conclusion?

Neither the Government of India nor the Home Government appear to have come to any definite finding on the question of an organised conspiracy, though the former say that the extended

area, over which offences against the railway and telegraph were committed, gives rise to a "suspicion of preconcerted action." Up to now we have not, I believe, been able to trace clearly the organisation behind the Mutiny of 1857. The outbreaks of last year were in some ways more serious, because they were more widespread at the start. But they collapsed speedily, because prompt measures were taken by the Government, the Indian Army remained staunch, in spite of persistent attempts to tamper with it, and the 150,000 demobilised men in the Punjab and the rural and martial classes were actively loyal.

I may give one illustration how the Committee's conclusions are weakened, and the cases of individual officers may be prejudiced by their excluding the judicial findings from consideration. Much controversy has centred round the nature of the meeting at the Jallianwala Bagh on April 13. General Dyer's action in dispersing it was necessarily affected by his conception of its composition and objects. The Committee have thrown little light on these points, but condemn General Dyer for opening and maintaining fire on unarmed crowd of 10,000 to 15,000 persons. A reference to the judgment of the tribunal in the Amritsar conspiracy case, which was presided over by a High Court Judge, shows that the organiser of Jallianwala meeting of April 13 was Dr. Muhammad Bashir, who had taken a leading part in the acts of rebellion on April 10, had led the mob, of which he was a recognised leader from April 10 onwards, at the attack on the National Bank, and had incited them to the brutal murder of Messrs. Stewart and Scott. After this, can there be much doubt as to the object of the great Jallianwala Bagh gathering on April 13, assembled in defiance of repeated proclamations, or of the necessity for immediate and drastic action in forcibly dispersing it?

Premature Amnesty

It may be noted that the Tribunal, after full consideration of the case of Muhammad Bashir, decided that only the death penalty would adequately meet his offence. The death sentence was however, soon commuted; within a few months he was set at liberty under the amnesty proclamation, and he is now Secretary to the local Muslim League and prominent in the Khilafat agitation!

Surely the royal clemency was never intended to apply to criminals of this type? This particular case is, however, only typical of scores of others which the promoters of rebellion and disorders who had been sentenced to transportation or long periods of imprisonment, have been set free by the executive, with what loyal and thoughtful Indians regard as dangerous haste. Those men are now

welcomed as heroes and martyrs by the enemies of the British rule, and so far from showing any change in their hostility to Government, are often foremost in denouncing those to whom they owe that release.

The Government of India in paragraph 42 of their despatch note that out of a total of 1,779 persons convicted in connection with the disturbances, all had been released by February last, except ninety-six of the worst offenders. Whether this wholesale amnesty was justified in itself, or is conducive to future peace and tranquillity, is a matter of opinion. Anyhow, the action of Government in releasing them has been interpreted, by them and others, as an admission that they were guilty of no offence, and in such circumstances it is only natural that loyal men should be slow to come forward to depose against them.

Sentences of the Tribunals

Both the Government of India and the Hunter Committee comment on the fact that the sentences of the tribunals were, in the popular opinion, needlessly severe. Here again, references to the judicial records would have shown that the tribunals, under general instructions from the local government, invariably referred to cases in which they considered the sentences ordained by law to be too severe, and that the local government invariably gave effect to the recommendations.

Some people think that when reduction or remission of the sentences imposed by the Courts is thought advisable, previous consultation with judges concerned is preferable to wholesale interference by the executive with the proceedings of the judiciary. Such interference is becoming very common in India; it places the judges in an invidious position; and it strikes at the roots of any sound judicial system. The judicial officers selected for the special tribunals had to face a task of enormous magnitude. They discharged their thankless office with admirable promptitude, impartiality and ability. Nowhere have I seen a word of recognition of their labours by those in authority, and, as a contemporary witness, I should like to say that the people and Government of the Punjab are under a deep obligation to them.

Martial Law and its Operation

The Government of India in paragraph 41 of their Despatch, arrive at the conclusion that "the administration of martial law in the Punjab was marred in particular instances, by a misuse of power, by irregularities, and by injudicious and irresponsible acts." They undertake to take action against the officers (the names are given) whose conduct has been criticised and condemned. This

decision is accepted and emphasised in the orders of the Secretary of State.

Now, in justice to the officers in question, who were suddenly called upon to exercise novel and unpleasant responsibilities without any adequate instructions to guide them, their position should be made clear. In a telegram of April 16 the Punjab Government, with a view to preventing any such irregularities by inexperienced officers, formally proposed a detailed scheme for keeping the administration of martial law under the control of the civil authorities, and had indeed, begun to give effect to that scheme. This, in fact, is the very system which the Hunter Committee, the Government of India, and the Home Government now regard as essential to the proper administration of martial law. But the Government of India in their telegram No. 541, dated April 18, refused to accept our proposals, and held that "martial law having been declared . . . all further power of prescribing offences, penalties, courts, and procedure for trying the same, are vested in the General Officer Commanding, and he only can exercise those powers. There is thus no power in the Lieutenant-Governor to take the line proposed in your telegram. They suggest any action already taken should be ratified by the General officer Commanding."

The Punjab Government had reluctantly to give effect to these orders. The result was that officers, military and civil administering martial law were deprived of the benefit of authoritative advice and guidance from the Civil administration.

Is it just that in these circumstances they should be punished for irregularities due to ignorance, novel conditions, or even to excessive zeal? The Government of India appear to have overlooked this correspondence. The Secretary of State in Paragraph 8 of his despatch, refers to it when he says that I "had evidently contemplated arrangements by which civil officers would be accorded a recognised position to advise on military administration." I went far beyond "contemplating" such arrangements; I had actually introduced them, but had to conceal them under superior orders.

Delay in Disclosing Facts

A most important point is the delay in acquainting Parliament, the public, and the press with at least the broad facts of the disturbances. Nothing has done more to prejudice the case of General Dyer and the other officers administering martial law with the Press and public at home than the suspicion that things had been done by them which could not stand the light of criticism, and which were therefore concealed or minimised by them or by the authorities in India.

There is absolutely no foundation for such a suspicion. As regards the Punjab, I can state that the facts of the various outbreaks and the measures taken by General Dyer and others to deal with them were communicated day by day as fully as known to the Government of India, and doubtless by the Government of India without delay to the India Office. I left India after the outbreaks at the end of May, 1919, and arrived in London on June 28. On June 30 I had a long interview with the Secretary of State, during which we went over all the main facts of the outbreaks at Amritsar and elsewhere, and discussed General Dyer's action in detail, including the Jallianwala Bagh and the "crawling" order. Indeed, in regard to the latter Mr. Montagu was able to tell me that he had already seen my letter of May 1 to the Viceroy.

At the time, I probably knew as much about the situation in the Punjab as anyone at home or in India. I put all my information at the disposal of the Secretary of State, and also of Lord Sinha, Sir T. Holderness, and others at the India Office. The impression I then formed (in June and July last) was that as regards all the main facts the India Office was quite as well informed as I was; though I was naturally able to explain certain points, e.g., the reasons for using aeroplanes at Gujranwala, and for the exclusion of legal practitioners from other provinces by the Martial Law authorities, and the treatment in gaol of the editor of the "Tribune," regarding which Lord Sinha had received many representations.

I was in London up to November, excepting the month of August, and was working at the India Office as a member of the Esher Committee; so that I was easily available to furnish any further information. Indeed, all that time, my endeavour was to impress on the authorities at the India Office gravity of the situation in the Punjab, which to my mind they had not then sufficiently realised.

Soon after my return to India I saw a Reuter's cable of Dec. 16, which made the Secretary of State say "he did not know the details (of the Amritsar occurrences) until he saw reports in the newspapers" (end of November) which were profoundly disquieting. I at once wrote (on Dec. 30) to the Secretary of State, reminding him of the details of our conversations in June and July. I quote from that letter in so far as it bears on General Dyer's case.

"In writing all this I am less concerned with my own responsibility in the matter than with how others may be affected by any misunderstanding or obscurity. Dyer, at the first interview I had with him on April 16, told me everything as frankly and fully as the limited time I could spare him (when there was rebellion all round) would allow. I did my best to repeat his version, with my own views and comments, to you and others at the India Office on the

very first opportunity. If I did not do so fully enough, then the fault is certainly not his, but rests either with me or with those who were questioning me. But, as I have already said, there was, even as far back as June 30, little room for doubt as to the substantial facts, viz, the circumstances in which he opened and maintained fire on the prohibited assembly on April 13 causing death casualties which, at the time, he roughly put at about 800, but which the complete, up-to-date inquiries put at 379."

Leading points in the case.

I have brought forward the above facts in hope of throwing light on certain matters which are still somewhat obscure and of securing a full and equitable consideration of the cases of those officers whose action has been censured or condemned.

I have no criticism to offer on the findings of the majority in regard to myself except that I still adhere to my opinion, which the Government of India and the Home Government appear to accept, that General Dyer's action at Amritsar on April 13 smashed the rebellion at its source, and thus prevented widespread bloodshed, rapine, and the murder of Europeans in the Punjab and probably elsewhere. In the words of the majority "a movement which had started in rioting, and become a rebellion, might have rapidly developed into a revolution."

The points I do wish to bring out are—

1. That the composition of the Hunter Committee as a whole was defective, and the minority was not impartial.
2. That the interval of six months between the disorders and the commencement of the inquiry seriously prejudiced the results in a manner unfavourable to the officers concerned.
3. That the scope of the inquiry was unduly limited by the terms of reference which excluded Calcutta and Peshwar.
4. That even within the limits assigned, the Committee did not cover all the ground, having omitted from consideration the judicial findings in the conspiracy and other trials.
5. That, consequently, their conclusion that, on the evidence before them, there is nothing to show a pre-arranged conspiracy is of little value.
6. That, similarly, their condemnation of the sentence of the Martial Law Commissions as unduly severe, is not justified.
7. That, the officers engaged in repressing the disorders have been prejudiced by the delay in publishing the broad facts regarding outbreaks—a delay for which they were in no way responsible.
8. That condemnation (especially by the minority) of officers for irregularities in the administration of martial law is not justified,

in view of the fact that they were denied the benefits of civil advice and guidance in the exercise of novel and difficult responsibilities.

I have only one remark to add. Neither in the Hunter Report, nor in the Government of India despatch, nor in the Secretary of State's reply is there any condemnation of the conduct of those who fomented the disorders, and are primarily responsible both for the blood-shed, which all right-minded men deplore, and for any hardships which the introduction of martial law entailed. Those who had the arduous task of repressing those disorders, who were at the time assured of the full "countenance and support" of the Government of India, who did their duty according to their lights and speedily crushed the rebellion, have a right to expect a definite decision as to whether they acted rightly or otherwise. The rather halting expressions of opinion now on record are unsatisfactory, both to them and to the public here and in India.

Our officials in India are the agents of the Imperial Parliament. They have not only to deal with the small educated minority, who are able to make their voices heard in India and in England, but to safe-guard the interests of the voiceless millions, till such time as those are in a position to protect and speak for themselves. In this arduous and often thankless task, they have to face constant obloquy and mis-representation; they are not allowed by the rules of the service to defend themselves, and have to look, sometimes in vain, to others to defend them. In the last resort, they look to the Imperial Parliament for the final judgment.—Yours, &c.,

M. F. O'DWYER,

Late Lieut-Governor of the Punjab.

Reply of Dr. H. M. Bashir

of Amritsar

Dr. Hafiz Muhammad Bashir of Amritsar sent the following letter to the press.

"One had liked to believe that after such a thorough exposure and a strong condemnation even by responsible men of his own kith and kin, of the 'Prussianism' practised by Sir M. O'Dwyer during his holding the highest office in the Punjab, the gallant Sir Michael would prefer a quiet corner unexposed to public gaze, to ruminate and perhaps even to repent, nay to shed a tear or two in remorse for the atrocities perpetrated on a race which has always and specially recently spilt its precious blood in abundance to maintain the dignity of their august Sovereign. But to expect this from a man of Sir Michael's disposition is to expect impossibilities. The already impossible task of forgetting him is being rendered still difficult by his persistent campaign against the Punjabis. He had adopted a strong attitude of hostility against the educated community of Punjab in particular and of India in general. An educated man was to him as a red rag to the bull in the council, and outside, in Darbars, in public functions wherever and whenever he opened his lips the 'agitator' in his mind was synonymous with 'disloyal.' Who can ever possibly forget the immense wrong done to and immediate injuries inflicted on this community? Hundreds of them were handcuffed, fettered, locked in solitary cells, insulted and humiliated. Thousands of hearths and homes were broken up and devastated by acts of tyranny and high-handedness perpetrated in the name of Law and Justice. The unjustifiable cold and calculated massacre of hundreds, of His Majesty's most loyal and law abiding subjects, rendering their children homeless and penniless dependants for their mere existence on the charity of the nation has now been proved beyond doubt even out of the gallant knight's own mouth to be due to him more than to General Dyer. While the arm that played the havoc was that of the General, the brain that actuated it was surely Sir Michael's. These and a host of other acts of kindness and mercy have immortalised his name which will be handed down to posterity as that of one of the greatest benefactors of the Punjabis. I wonder why he took so much pains to get 'addresses' engineered and why many of the Punjabis were forced to eulogise him against the dictates of their conscience. There is none among the living or the dead whose memory shall be cherished with more devotion and love than of this the real friend of the Punjab. The innumerable heavy groans and heart-rending grumblings and the superabundance of sighs coming out of our hearts every day bear a clear

testimony to my assertion. The stealthy way in which he had to leave the province over which he had a despotic sway for years so 'unwept, unhonoured and unsung' is the highest recognition of his popularity that the province could show to him.

"Not content with what he has done during his 'regime', this exsatriat cannot even now control his wrath and instead of showing even the slightest compunction for what he did, he yet revels in extolling his own deeds and takes delight in singing his own praise. While doing so he has been hurling stones and flinging abuses at all those who have the misfortune of differing from him. Even Mr. Montagu—who in his zeal to keep up the so called prestige of the Government has lavishly showered praise on him who deserves strong censure, and who has by commending instead of condemning, by approving instead of severely criticising, the methods of Sir Michael has forfeited a good portion of the confidence of the Indians—has not been spared and has had rather a rough handling at the hands of this despot. The Indian Members of the Hunter Committee had their share and perhaps to spare. They have put in a dignified protest and the courteous retort offered by them might act as an eye opener for him. I had hoped that he would not touch the Martial Law convicts who had had enough of kindness and attention already at his hands. But no, that could not be, and I have had the honour of being noticed by him in his well known letter published in many papers of England and India.

A Categorical Denial

To make an attempt to clear my conduct in the eyes of those who are biased beyond measure and to whom every worker in the public cause is a terror will be a hopeless task, but I must be permitted to put in a word or two to avoid further mischief. In the first place I categorically deny all the charges levelled against me. I believe and believe most strongly that the meeting of the 13th April in the Jallianwala Bagh was perfectly an innocent one, secondly, had I been the convener of that meeting, it would not have been a matter of shame for me to acknowledge it. But as the actual facts stand and even the Police records show I had nothing to do with that meeting. It was arranged by Hans Raj, who became an approver afterwards, but who knows whether even at that time he was under the thumb of the Police or not. It is now an open secret that the name of our distinguished townsman (L. Kanahya Lal) was used to attract a large audience and thus to afford to the military a pretext to shoot and to shoot well and to reap a good harvest. Here in Amritsar some well informed people are of opinion that the theory of the meeting being specially organised by men inimical to the interests of the country can not be carelessly thrown away. Any way I deny

the responsibility of organising that meeting and in that I am supported by even the evidence of the opposite party. Even the judicial finding which in those days was an euphemism for prosecution story declares that I was not present at that meeting and that I am not at all responsible for anything that happened there.

"As to my being present at the National Bank at the time of the outrages committed here, I emphatically repudiate the charge and I must frankly admit that my faith in British justice is considerably attenuated when I find that such a serious charge against me is considered to be established on the absolutely false and flimsy evidence of approver Hans Raj, a man of no social status If this Hans Raj was an embodiment of veracity and his word was gospel-truth then why not were his bombastic and ludicrous theories of Afghan war and burning of European bungalows believed and why was not Mir Magbul Mahumud, pleader, placed in the dock charged with the same serious offences as I was? To believe a dismissed ticket collector, removed from service on account of tampering with cash and to base conviction on such an unreliable evidence could be possible only in Martial Law days. Even now he is in the employment of the Government, a reward meted out to him for his fabricated and false evidence involving many respectable and innocent people.

I was condemned to gallows on the evidence of this absolutely demoralised creature, and the beauty of the whole affair was this that not only there was no independent witness to corroborate him, and there were reliable independent witnesses to contradict him, but even the Police hirelings and the so-called eye witnesses did not depose against me and never mention my presence there. On the solitary statement of a hopelessly false witness I was sentenced to the extreme penalty provided by Law. To say that justice was being administered in those days is a clear travesty of language, or the word "justice" must have then acquired a new meaning. The repression that was rampant then, the lawlessness that was the order of the day, had forbidden "justice" like the legal practitioners from outside the Punjab, from entering the sacred precincts of the Punjab which was being administered with naked sword. Justice is already a very rare commodity when it is a question between the executive and the people, but it had become rarer and perhaps evanescent in those days. If I were to make an attempt to describe how 'justice' was doled out to us by the High Court Judges and others in whose hands our destinies were then placed I think I would send a thrill of horror and indignation through all right minded people. To deduce any conclusion from the convictions and sentences passed by Tribunal, even though presided over by the High Court Judges, is to exceed all reasonable limits of fairness.

"I have been released in obedience to the orders contained in the Royal Proclamation for a fairly liberal interpretation of which our sincere thanks are due to Sir Edward MacLagan, our present Lieutenant Governor, who is striving his utmost to remove the ill-effects of the oppressive 'regime' of his predecessor. To taunt me and my colleagues on our release is to aggravate our feelings. Innocent people, injured, insulted and deprived of their liberty can not be very jubilant over their release and can not prostrate themselves before those gods who now wish to take credit for the framing of the Proclamation, and yet who can not conceal their chagrin at the release of the persons who are an eye-sore to men of Sir Michael's type. My position briefly put is this. I was never a party to any deed or idea of violence against Government or for the matter of that, against any party or person. I firmly believe in straight forward methods of political agitation and hate and detest all ideas of secret societies or conspiracies. Constitutional agitation to me is my birthright and I have no intention to desist from it even at the risk of being exactly treated as before. Sir Michael is right when he says that I am the Secretary of the Muslim League and prominent in Khilafat Agitation. If these too are crimes and offences and can form counts of indictment then adieu to all desire of political advancement and emancipation. We are in the deep mire of servitude and servility, and if to make constitutional efforts to get out of it can be dubbed as 'disloyalty' then there is an end to all aspirations and ambitions raging amongst us. Khilafat is to me as the breath is to the body and I can possibly brook no interference with my religion, and I shall, as long as it is possible for me to do so strive in my humble way to carry on this agitation.

Sir Michael chaffs at our being treated as heroes. It is quite true that I do not deserve the praise the nation has been kind enough to bestow on me, but who can change the tide of popular enthusiasm, which, to a sane man clearly indicates that Repression can never throttle popular desire for furthering the interests of the Motherland. Persecution leads to the deification of the ordinary mortals and if I have been lucky enough to get a share of the nation's love, why should Sir Michael take it to heart? Sir Michael ought not to lose sight of the fact that the replacement of gallows by garlands is a necessary outcome of the phase of tyranny and oppression through which we all had perforce to pass.

The Dyer Debate

In the House of Lords.

July 19th, 1920

There was a large attendance of members and peeresses in the House of Lords. Lord Finlay brought up a motion deploring the conduct of General Dyer's case as unjust to him and establishing a precedent dangerous to the preservation of order in face of rebellion. He contended that General Dyer was justified in firing on the crowd at Amritsar without warning owing to the defiant attitude of the assemblage and widespread insurrectionary movement in the neighbourhood and declared that General Dyer had been condemned by the Govt. without trial on misconception regarding a soldier's duty.

Lord Finlay in bringing up his motion declared that one of the mainstays of the Empire in the past had been the feeling of every officer that when he was called on to take action in times of difficulty, so long as he acted honestly in discharge of his duty, he could rely upon people at home standing by him. If the suspicion were created that the officer who had done his duty would be thrown over, the ill-effects of such a feeling on the public services could not be exaggerated. He maintained that Mr. Montagu's view that General Dyer ought to have regarded only the local effect of his action was erroneous and contended that the disturbance at Amritsar was part of a wider insurrectionary movement and General Dyer was bound to consider the effect of his action on the whole district affected by that movement. With regard to the Hunter Commission's statement that evidence was insufficient to establish the existence of an anti-British conspiracy, Lord Finlay declared that anyone examining the evidence must come to an entirely different conclusion. Amritsar was the centre of the disturbance, the situation there was indeed formidable, it was a sacred city of the Sikhs and the vital link in the railway communication. If the railway system had been cut it might have most disastrously affected Govt's ability to deal with the Afghan situation. General Dyer was a very able officer. He had shown that he was eminently humane and that he would strike hard when necessary, but nobody had shown greater averseness to the unnecessary use of force. General Dyer found a very great crisis at Amritsar and he took every possible step to warn the population and endeavoured to secure obedience to the law without recourse to arms. He strongly criticised the suggestion that General

Dyer should have given additional warning before firing. He declared that the crowd was there because it was determined to defy the proclamations. Mr. Montagu's statement that the omission to give the warning was inexcusable was most extraordinarily frivolous. Parleying under the circumstances would have been useless, perhaps fatal. Had General Dyer hesitated, the rebellion might have acquired an irresistible momentum. With regard to the charge that General Dyer fired too long, Lord Finlay contended that it was not a case of frightfulness upon innocent people. General Dyer had to deal with a guilty mob determined to defy the Government and he was bound to consider the whole situation.

Lord Finlay emphasised that thanks were showered on General Dyer, the Government had promoted him, he was universally regarded as the saviour of the Punjab, even the Sikhs had conferred on him the unprecedented honour of making him a Sikh. He further protested against the gross abuse of appointing strong partisans as members of the Committee of Enquiry. He said no partisan of General Dyer had been appointed on the Hunter Committee. General Dyer had throughout been placed at every disadvantage. This was one of the greatest flaws in the whole procedure. The result was that General Dyer had been ruined. Surely it was unnecessary to brand him as had been done. He might have been employed if not in India, then elsewhere in the Empire. He had been condemned without trial on a misconception of the duty of the soldier who had to deal with a local disturbance which was part of the general insurrection. He concluded by strongly criticising Mr. Montagu for impugning the humanity of General Dyer with regard to helping the dying and the wounded. He declared that the Commission's report was tantamount to the acquittal of General Dyer in that connection.

Lord Sinha

Lord Sinha in the course of a faltering speech said that he feared that silence by him might be misconstrued both in Great Britain and India. On behalf of his Indian fellow countrymen he expressed deep horror and regret at the abominable outrages committed at Amritsar, Ahmedabad and elsewhere in April of last year. He also expressed his countrymen's deep resentment and indignation over the humiliation inflicted and the indignities heaped on some of their countrymen in the Punjab in the course of the administration of Martial Law there. His fellow-countrymen desired vindication of principles, not punishment of individuals. The events in the Punjab in April had aroused a controversy prolonged beyond the limits of safety. He feared dangerous feud without end, unless both parties dropped the question and let themselves accomplish the great task of peace and reconciliation so

ably begun by Sir Edward Maclagan, the present Lieut-Governor of the Punjab. Lord Sinha regretted that Lord Finlay had considered it fit to cast unmerited aspersions on the Indian Members of the Hunter Committee. He submitted that two points of view were possible with regard to the introduction and continuance of Martial Law, but only one view was possible as regards Jallawalla Bagh. He denied that the Government of India at any time held the opinion that General Dyer's action at Amritsar was justified, and repudiated the somewhat dangerous suggestion that they deferred to Mr. Montagu's or the Imperial Government's wishes and altered their original view regarding General Dyer's action. Such suggestion was absolutely unfounded. General Dyer's promotion referred to by Lord Finlay arose from the Afghan war where he gave such a good account of himself, and before the Government of India had anything but General Dyer's own meagre reports with regard to Amritsar. He submitted that it was incorrect to say that the Government of India, by any member in the Legislative Council last September, had in any way approved, justified or condoned General Dyer's action. Lord Sinha emphasised that the Government of India's views as regards General Dyer had been founded on the findings of the Hunter Committee and had never been modified.

Referring to interviews with Sir Michael O'Dwyer at the India Office in June of last year, Lord Sinha said that the matters discussed were entirely unconnected with the Amritsar firing on April 13th. He only knew at that time that a collision had occurred between the troops and the mob with heavy casualties and inferred that the mob was of the same kind as committed outrages on April 10th previously. He characterised as a most monstrous and undervalued charge the suggestion that the Indian Members of the Hunter Commission had been imbued with partisanship. He declared that most of General Dyer's damaging statements in cross-examination were not made in reply to the astute native (!) lawyers but to Lord Hunter and Mr. Justice Rankin. He regretted that hardly any importance had been attached to the list of acts done in the course of the Martial Law administration in the debates up to the present and that attention had only been concentrated upon the question of propriety of General Dyer's treatment. That, His Lordship thought, would cause misunderstanding and create a wrong impression in India. He controverted the argument that General Dyer's action in the Punjab had saved the Punjab but he hoped that, even if that were so, none of their Lordships would endorse the doctrine that the end justified the means. It would be most highly dangerous to assent to such a doctrine. Not a single Indian believed that the situation was the same as in 1857. He did not know any person in authority in

India who would advance that argument. He concluded with an appeal to his fellow-countrymen to take the lesson to heart set by the Hunter Committee's unanimous condemnation of the Satyagraha movement, which he characterised as dangerous. He asked them to dissociate themselves from a similar pernicious movement started by Mr. Ghandi, otherwise called non-co-operation. It would only lead to the same disastrous results as Satyagraha. The more reasonable sections of Indians, by far the largest majority, had already dissociated themselves from it and if the Government of India were only allowed to pursue the present wise course, he doubted whether there would be a single Indian, Hindu or Mussulman, who would subscribe to or act upon that doctrine. Another lesson was to be learned by the Government, namely, the policy so successfully pursued in the United Provinces by Sir Harcourt Butler, in Bombay by Sir George Lloyd and in Bengal by Lord Ronaldshay. His Lordship would not interfere too hastily or violently in agitation of this nature but would let it kill itself in idleness. It could not last, and was against the interests of the people themselves. Ruthless repression and coercion would result in disorder equally with passive resistance and direct action. He asked his fellow-countrymen to cooperate as far as possible with all sections of the community, both European and Indian, in order that the large and benevolent scheme of Reform just launched might result in a progressive realisation of Self-Government in India, which had been declared to be the object of the Imperial Government.

Lord Middleton said that while what the Government had done as regards General Dyer might not be against military law it was against military etiquette and precedent. The highest authority laid down that when an officer was incriminated his offence was subsequently condoned if he subsequently went into action himself well.

In the course of the second day's debate on the Dyer case in the House of Lords, on July 20, 1920, Lord Curzon, on behalf of the Government said that he hoped that the House would not dissociate itself from the unanimous verdict of the high authority who had hitherto dealt with the matter and would not thereby send a message to India which he was firmly convinced would be a source of the greatest apprehension if not worse there. He dwelt on the importance and respect due to the views expressed by Lord Meston who strongly supported the steps taken by Government. He was glad that the debate had enabled some of the existing misapprehensions to be disputed such as General Dyer's alleged promotion after Amritsar. Dyer was Brigadier-General in the Afghan war and subsequently. Lord Curzon also referred to the dissipation of the suggestion that pressure was brought to bear on the Commander-in-Chief in India or the Indian Government or that the latter modified its views. He

defended the Government of India from irresponsible criticism. He admitted that General Dyer was possibly at a disadvantage before the Hunter Committee at the hands of a skillful Indian Council, but said that the Government's case rested with General Dyer's answers to questions by the Chairman of the Committee, Lord Hunter, and on statements in his own declarations, particularly on the published statement he drew up a few weeks ago. The two aspects which chiefly struck his Lordship were the crawling order and the happenings at Jallianwallah Bagh when the case came up before him as a member of the Cabinet, because he was convinced that those incidents had impressed themselves indelibly and produced much of the trouble to which Lord Meston had referred. In the course of his long experience in India he had been more than once involved in troubles and crisis of racial aspect. That experience was burnt into his soul, but he had emerged from it all with the unshakable conviction that only upon certain principles could any administrator of India, civil or military, honourably take his stand.

Lord Curzon said that he had noted that most of the previous speakers had only lightly touched upon the crawling order. He declared that if General Dyer's explanation of it before the Hunter Committee was to be accepted then it was a very vicious form of punishment because most of the people who submitted to it were ordinary inhabitants of the street by means of which they were able to gain only exit from their houses. Also this punishment was inflicted on April 19th for crime perpetrated on April 10th, and moreover, people arrested on minor charges in the different parts of the town had been subjected to this humiliation. Regarding the crawling order the explanation in General Dyer's recent statement, namely, that his order meant that the street should be regarded as the holy ground which was as well understood by Indians, was an afterthought if not an absurdity. Lord Curzon described the manner in which an Indian pays penance in order to mark the difference from crawling action. General Dyer's action in this connection was impossible to excuse despite the extreme and intense provocation. The subsequent explanation was inconsistent with the facts. He then proceeded to examine the Jallianwalla Bagh affair and rebutted at length Lord Finlay's presentation of minor facts and submitted the version based on the evidence of General Dyer himself and the Deputy Inspector of Police and his Brigade Major. He had only discovered one reference in the whole of the evidence on which the theory that the crowd was armed with lethal weapons appeared to rest. He described as a very dangerous doctrine General Dyer's explanation of his action that he wished to produce sufficient moral effect throughout the Punjab. That meant that any officer would be entitled to apply the

maximum rather than the minimum degree of force in a similar situation if he only cast eyes away from the arena in which he was acting and looked over a sufficiently wide field beyond. If that doctrine was applied to the quelling of any civil riot in England and if such action were taken and condoned, would any British Government stand for forty-eight hours in office? Lord Curzon then proceeded to develop his arguments against the contention that General Dyer saved the Punjab by his action, expressing the opinion that General Dyer no more saved India by the massacre at Amritsar than you could defeat the Bolsheviks or save Russia by a massacre at Odessa or Warsaw. He profoundly mistrusted the theory that General Dyer saved the Punjab by his exertions. He altogether denied that he had saved India by his example and the Government could not possibly accept Lord Finlay's theory that so long as an officer acted honestly in difficult circumstances he could rely on his superiors standing by him. To General Dyer sympathy could be given without stint but not necessarily support. He however paid a tribute to General Dyer's high personal and professional qualities and recognised that the respect felt for him had been manifested by the Sikhs. Lord Curzon did not desire to minimize the gravity of the situation which had existed and he quite understood how the temper of any man might be aroused by a series of shocking outrages, but what he condemned was General Dyer's conception of his duty which was altogether a wrong conception. He appealed to the House not to condone General Dyer's error and lower British standards of justice and humanity.

Lord Milner.

Lord Milner deplored the debate as likely to harm national interest. He declared that the suggestion that injustice had been done to General Dyer from political motive was unfair and gratuitous. He was one of the Cabinet Committee which had investigated the report of the Hunter Committee and he had approached the subject with bias all in favour of the soldier, of firm and even stern repression of sedition and maintenance of Imperial power, but he was forced regretfully to conclude that in the suppression of disorders, acts were committed for maintenance of authority which were ultimately likely not to strengthen but to undermine it. General Dyer's continuing firing, in order to create a moral impression in the Punjab, was a frightful error of judgment involving fearful consequences, but the Government would have committed a more terrible mistake if for fear of unpopularity they had hesitated to condemn General Dyer's action. As regards employment of General Dyer His Lordship declared that it would be unjustifiable and impossible to employ General Dyer when many other British officers of

equal rank and distinction were awaiting employment. The Government were not inflicting any penalty or stigma on General Dyer by not employing him because they could not employ him without extreme injustice to others. The Government took full responsibility for the repudiation of General Dyer's action. No lighter terms of censure would have adequately met the case. The suggestion that any hurt had resulted to General Dyer beyond the inevitable result of censure which the Government felt bound to pronounce was quite contrary to fact: As far as was consistent with their duty in asserting principles they were bound to assist Government and they had dealt with General Dyer considerately and leniently. Far graver consequences to individuals might have to be faced if necessary in order to assert principles which the Government considered vitally important to sound administration and the fair name of the Government of India for capacity of maintaining order by strong but temperate and not ruthless or cruel methods.

Lord Canterbury regretted the discussion on the ground that it might be construed as approbation of General Dyer's policy.

Lord Sumner supported the motion declaring that General Dyer had been convicted without trial.

Lord Buckmaster opposed the motion.

Lord Meston said that the motion was really a vote of censure on the Government of India. He denied that there was any avoidable delay in bringing the case of General Dyer to investigation. General Dyer's continuing to fire after the crowd had dispersed was unjustifiable. It was untrue that the security of the Punjab depended on General Dyer. It was the steadfast front of the Government of India in the Punjab and elsewhere and the courage of Sir Michael O'Dwyer that had kept the Punjab together. No other officer had acted in a similar way to General Dyer in suppressing disorders. They did what was necessary and no more.

The Amritsar Debate

The Times' Political correspondent writes as follows:—

"When the Secretary for India rose to-day to speak on General Dyer's conduct at Amritsar, the benches were more crowded than they have been for a year, except in some of the Russian debates. Before a word was said, one could feel the air beating with excitement.

"Mr. Montagu is a sincere man and a genuine Liberal, but he does not know the House of Commons. His opening speech was bad advocacy, and one could see his critics growing more and more irritated with each sentence. He acknowledged the services of General Dyer, but said his principles were wrong. When he declared that his intention was to read Indians at large a "moral lesson" that was terrorism. His compulsory salammung and his "all fours" order was racial humiliation. His setting up of the whipping triangles was the policy of frightfulness. These things were inconsistent with our policy in India. If you justified General Dyer it meant that we ruled India by the sword; and the end of that policy would be that our rule in India would stink in the nostrils alike of our own democracy and of the Indian people, and that the two would combine to close it. You must choose between the policy of force and the policy of partnership. You could not mix the two, voting for partnership one year and for force the next. As Mr. Montagu developed this argument the House became more and more restive. When he went on to say that there was a theory abroad that an Indian was tolerable only so long as he obeyed orders, interruption swelled into a prolonged roar of anger. He persisted courageously and lowered the horns of his dilemma more menacingly. "Choose, choose," he said, "between race ascendancy and partnership and on your choice will depend the continuance of the British Empire."

"The House was now thoroughly angry. It had not expected the sort of speech. It was bad advocacy in two ways. It was too passionate, and the malcontents were irritated by its sharp logical dilemmas. Secondly the English mind does not work in that way. We are the most daring political generaliser in the world, but it is our way in politics, as in science, to proceed inductively from the particular to the general, and not from the general to the particular."

"The House would have welcomed the principles of Mr. Montagu, which were not merely sound, but noble, if he had led up to them by an accumulation of instance. But between our inductive English method of political argument and this deductive argument from sharply opposed logical propositions, there is an interval of 2,000 years, and 30 deg. of longitude. East and West, be they produced ever so far, will never meet, and Mr. Montagu, patriotic and sincere English Liberal as he is, is also a Jew, and in excitement has the mental idiom of the East. That was the fault of a speech which in logical idea was a singularly pure and brilliant expression of Liberal doctrine.

"A more violent contrast than that between the speech of Mr. Montagu and that of Sir Edward Carson, who followed, it would be impossible to conceive. There was not a general idea in Sir Edward Carson's speech, unless we regard his passion for justice to the individual as a general idea. "We cannot try him, but we have a right to insist that he should have a fair trial." For the rest, his speech was an appeal to prejudice. To break a man without fair trial, was un-English; you must trust the man on the spot. Even if there had been an error of judgment, ought he alone to bear the consequences? His strongest point was that the punishment was not immediate, but was delayed. How unfair for armchair politicians in Downing street to pass these judgments on men who had these frightfully difficult practical problems, not of their own making, to solve. You must encourage your agents by your support if they do the onset. Perhaps General Dyer had saved India. The substance of the speech was extraordinarily poor; the manner was impressive, and the advocacy perfect.

"Mr. Churchill, who followed, was amazingly skilful, and turned the House (or so it seemed) completely round. He began so haltingly as to get the patient ear of the House. He avoided at first expressing an opinion on the merits and entered on an elaborate, not to say dry discourse on the law of master and servant in the Army. He defined the three degrees of dissatisfaction with the conduct of an officer in the Army. General Dyer's retirement on half-pay was the mildest of the three punishments, and you could not say he had been treated unfairly unless you were also prepared to insist on a special trial for the hundreds of officers who had been treated so during and since the war. He met the argument that General Dyer's conduct had been condoned by his superiors by making it clear that but for that he would have been subjected to severer punishment.

"Having thus met the suspicion that there was something especially vindictive in the treatment of General Dyer, Mr. Churchill began to deal with the merits of the case. He admitted the diffi-

culties that confronted an officer in dealing with civil disturbances. Still there were certain elementary tests. Was the crowd with which he had to deal attacking or threatening to attack? Was it armed? At Amritsar the answer to both the questions was in the negative. He then went on to describe the slaughter. We had a picture of the crowd massed in a narrow space, rushing wildly from centre to the corners and back again, as the guns were turned to this direction or that. The feeling of pity grew dominant as the picture became more vivid.

"Mr. Asquith followed with a criticism of Sir Edward Carson's speech. He complained that he had not addressed himself to the merits of the case. To ask the House of Commons to reverse the decision that had been taken was to condone one of the worst outrages in our history.

"After that the debate flagged. Mr. Spoor, for the Labour Party, developed that General Dyer was typical of an Anglo Indian spirit which was not only illiberal and tyrannical, but was undermining the foundations of our rule.

"Feeling was again very high when Mr. Bonar Law rose to wind up the debate. He laboured to show that he understood all the difficulties of General Dyer's position, but hardly succeeded in soothing the anger of the malcontents. He seemed less successful usually in gauging the moods of the House, and in managing them.

"The Labour amendment to reduce the India Office Vote by £100 was lost by 247 votes to 37; and Sir Edward Carson's amendment, also for a reduction of the vote, by 230 votes to 129.

"General Dyer listened to the debate from a seat under the gallery. The following Indian princes were in the Distinguished strangers' Gallery; The Maharaja of Jhallawar, the Maharaja of Kapurthala, the Tikka Sahib of Kapurthala, the Maharaja of Cooh Behar, the Yuvaraja of Mysore, the Maharaja of Alwar, and the Jam Sahib of Nawangar.

The Lord's Debate

The Debate in the Lords on Lord Finlay's Motion "to deplore the conduct of the case of Genl. Dyer as unjust and as establishing a precedent dangerous to the preservation of order in the face of rebellion" lasted for two days and was lively in the extreme. It had all the accompaniments of a great occasion. For once the Peers of the realm found means to leave their shady career and congregate to assert a principle on which lay the foundation of their decrepit

existence. More than 200 of their Lordships, most of them as innocent of that pampered chamber as of India, attended and a very "distinguished" gathering of Peeresses and 'fashionable' society-women, reeking capitalists and other friends and admirers of the "Hero of the Punjab" lent an imposing air to the assembly. The Gaekwar of Baroda, the Maharani, and other Indian Princes and noblemen also attended.

Lord Finlay had been well briefed for his job. He stuck to the case of General Dyer throughout, without any concern for the graver issues involved for the people of India or a word of sympathy for the innocent victims of the massacre. He condemned the partisanship which the Indian members of the Hunter Committee had displayed and depicted the disadvantages under which the accused officer laboured.

Lord Sinha, apologetic in his tone and manner, was more placid and restrained. Perhaps the atmosphere of the House was too strong for him and he thought it wiser to leave the more unqualified denunciations to those who could speak with cabinet authority. He went out of his way to condemn the activities of Mr. Gandhi especially in relation to the new movement of Non-Co-operation. It was a calm, well-reasoned speech.

The Lord Chancellor mercilessly denounced the cruel acts of Genl. Dyer. He did this certainly in unqualified language such as one does not often hear from such lofty quarters; but he also showed that he was not unaware of the deeper issues that were at stake and of the fundamental principles that there were involved. In words that were worthy of the high office which he holds, Lord Birkenhead asserted the right of Indians to equal treatment with other citizens of the empire, and he warned their Lordships of the harm they would be doing in India if they passed the resolution.

The case for the Government of India was stated by Lord Meston. His business was to justify the policy of finding a scape-goat for others (himself included). He was the only speaker who thought it necessary to defend the action of the Viceroy.

Lord Curzon declared his distrust of the theory that General Dyer saved the Punjab by his exertions, and he altogether denied that he saved India by his example.—Were the principles upon which General Dyer acted approved said his Lordship, we should lower our reputation in India, lower our own standards of justice and humanity, and debase the currency of our national honour. The House heard him throughout with breathless interest, but with scarcely a sign of approval. The motion was adopted by 129 votes to 86—a direct defeat of the Government.

The Naidu-Montagu Controversy

Of the numerous publicity campaigns carried on in England by Indian congressmen, the meetings of Kingway Hall and of Scarborough are of great significance. In the former Mrs. Sarojini Naidu charged the Martial Law Administration with gross women-outrage. The following correspondence between Mr. Montagu, Sec. of State for India, and Mrs. Naidu explains the matter.

First Letter to Mrs. Naidu.

India Office, Whitehall, S. W. J. 9th July, 1920.

MADAM,

I am directed by the Secretary of State for India to invite your attention to the report of a public meeting at Kingway Hall on the 3rd June, published by organisers of the meeting. You are reported therein to have said:—"My sisters were stripped naked; they were flogged; they were outraged." As you have made no correction, the Secretary of State is bound to assume that you were correctly reported.

Mr. Montagu finds it difficult to believe that anybody could for one moment have thought that such occurrences were possible; and he finds that these particular allegations do not occur in the Report of the Committee appointed by the Indian National Congress (to which you appeared to refer as the authority for them) or in the Evidence collected by that Committee; and nothing in that Report or Evidence justifies the allegation that Indian women were stripped naked or flogged or outraged.

Mr. Montagu has satisfied himself that the statements that women were stripped naked, or flogged, or outraged during the operation of Martial Law in the Punjab are of course absolutely untrue. He therefore requests you to withdraw immediately the charges which you are reported to have made publicly, and for which, if correctly reported, you alone appear to be responsible, and to give to your withdrawal the same publicity as was given to the original statements; or if you are prepared to maintain the accuracy of these specific charges, to produce justification for them. The

Secretary of State reserves the right of publishing this letter, but before doing so, proposes to await your reply, up to Wednesday morning, the 12th July.

I am, Madam,

Your obedient Servant,

(Sd.) S. K. BROWN.

Second Letter to Mrs. Naidu.

India Office, Whitehall, S. W. 1 10th July, 1920.

MADAM,

Since the despatch of my letter to you yesterday, the attention of the Secretary of State has been called to statement No 147 printed on p. 194 of the Report of the National Congress Sub-Committee.

Having regard to the general object of the meeting, to the case which you desired to make to your audience, and to the context of your remarks, the Secretary of State does not think that this charge can be the allegation which you had in mind. It is an allegation wholly unconnected with Martial Law procedure, made against Indian Police constables and not against what you described as "Martial Authorities." It is not specifically referred to in the Congress Report.

If, however, this allegation which does appear in the Report of the Evidence published by the Congress Sub-Committee, is the foundation of your statement, he asks you to make it clear that you had no reason to make such a charge against any "Martial Authority," and that you had in your mind only an allegation made against the subordinate police in the course of search for stolen property.

I am to add that paragraph 40 of the Government of India's despatch of 3rd May last in which enquiry is promised into such cases of alleged ill-treatment obviously applies to this case. The Secretary of State has also, however, directed special enquiry into this matter and hopes in due course to be in a position to state to the public the results of the enquiry.

I am, Madam, Your obedient Servant,

(Sd.) S. K. BROWN.

Mrs. Naidu's Reply

Dear Sir,

I am in receipt of the letters of the 9th and 10th insts. sent me by your Secretary at your direction.

I notice that the statements contained in the first letter are considerably modified in the second. While the first categorically denies the existence of any evidence published by the Congress Sub-Committee to justify the remarks made in my Kingway Hall Speech to which you refer, the second on the contrary admits that there is such evidence, but that the outrages were the work of the police and not of martial Law Authorities.

I am surprised that you should attempt to make such a fine distinction, the materiality of which is not obvious, when the police were an integral part of the Martial Law machinery and admittedly were serving the purposes of Martial Law Authorities inasmuch as these outrages were perpetrated by them to procure evidence for the Martial Law Tribunals.

In any case, if you turn to my speech itself, the report of which is not entirely accurate, you will note that there are only two instances of outrage upon women which I have specifically attributed to Martial Law Authorities. These remarks were based upon several statements made by the women themselves, which read thus:—

STATEMENT 581, PAGE 868,

MADE BY TWENTY THREE WOMEN.

"We were called from our houses wherever we were and collected near the school. We were asked to remove our veils. We were abused and harrassed to give out the name of Bhai Mool Sing as having lectured against the Government. This incident occurred at the end of Baishakh last in the morning in Mr. Bosworth Smith's presence. He spat at us, and spoke many bad things. He beat some of us with sticks. We were made to stand in rows and to hold our ears. He abused us also, saying "Flies, what can you do if I shoot you?"

PASSAGE FROM STATEMENT 362, PAGE 367.

..... "While the men were at the Bungalow, (where they were detained) he rode to our village, taking back with him all the women who met him on the way carrying food for their men to the Bungalow. Reaching the village, he went round the lanes, and ordered all women to come out of their houses, himself forcing them out with sticks. He made us all stand near the village Daria. The women folded their hands before him. He beat some with his stick and spat at them and used the foulest and most unmentionable language. He hit me twice and spat in my face. He forcibly uncovered the faces of all the women, brushing aside the veils with his own stick.

"He repeatedly called us she-asses, bitches, flies, and swine and said; "You were in the same beds with your husbands

why did you not prevent them from going out to do mischief? Now your skirts will be looked into by the village constables.' He gave me a kick also, and ordered us to undergo the torture of holding our ears by passing our hand round the legs while being bent double.

This treatment was meted out to us in the absence of our men who were away at the Bangalow."

This statement was corroborated by eight other women who made similar statements.

PASSAGE FROM STATEMENT 585, MADE BY MAICABAN, P. 869.

"On the 5th of Baishakh bullets were fired into our village. The village people ran away hither and thither. One European who was on horseback called some old women together and told them that whatever he had done (firing) was done well. The old women did not give any reply. He then abused them and beat them with a stick. He then asked other women to stand in a row. Those who had veiled their faces were forced to remove their veils, they too were beaten with sticks."

From the Statement 125, Page 177.

".....I am a purdahnashin. I never appear in public, not even before the servants. I was however, called down from my house. I went with a pardah (veil). I was peremptorily ordered to take off my pardah. I was frightened and removed the pardah. I was then asked who assaulted Miss Sahib. They threatened me that unless I named the assailant, I would be given over to the soldiers."

Need I remind you that the purdah is as sacred to the Indian woman as is her veil to the Catholic Nun, and forcibly to unveil an Indian woman constitutes in itself a gross outrage?

The other instances of outrage to which I drew attention in my speech, were not specifically attributed to any special individual. My charges, however, were based on statement 147, page 194, which, as you are aware, is of too indecent a nature to be quoted here or from the public platform.

I would further refer you to statements 130 and 131, which deal with the conduct of soldiers and not of the public.

I am deeply grieved to discover that until now you were not cognisant of the statements embodied in the Congress evidence concerning such outrages upon Indian women; and I trust that you are causing an exhaustive and impartial enquiry to be made into such cases.

YOURS FAITHFULLY,
(Sd.) SARAJINI NAIDU.

The Question of Impeachment

And Criminal Proceedings Against

Dyer and O'Dwyer

Early in 1920 the All-India Congress Committee submitted the case raised by the Punjab affairs to eminent Counsel in England for opinion. It was done with a view to ascertain whether and how far it would be possible to fit the offending officials with criminal responsibility. The leading Counsel, Mr. William Henry Upjohn, K. C., to whom the papers were entrusted is well known as a high and leading authority on constitutional Law. Mr. Upjohn says :—

The opinions we have formed can conveniently be stated under the following heads :

First as to the Case Against Sir Michael O'Dwyer.

The case alleged against Sir Michael O'Dwyer is that his administration was tyrannical. It has been laid down broadly, that all misconduct in high places, all oppressive and overbearing acts on the part of those in authority, are forbidden by law (Odgers on the Common Law Vol. I p. 182). It is, however, significant that the instances which are relied upon in support of this proposition are all cases in which there had been some specific offence. Three Lord Chancellors—Michael de la Pole in 1384, Lord Bacon in 1622, and Lord Mansfield in 1722—were convicted of bribery on impeachment. The Earl of Middlesex, Lord High Treasurer of England, was found guilty of refusing to hear petitions until he had been bribed ; and Warren Hastings was charged with rapacious treatment of the Begums of Oudh.

In our opinion, in order to found any proceedings against Sir Michael O'Dwyer it would be necessary to allege and prove *definite acts of oppression* done or directly authorised by the Lieutenant-Governor himself. The episodes which are said to establish oppression include : (a) The Speech in the Legislative Council in September 1917 which constituted an attack upon the educated classes ; (b) the prohibition during his administration of certain political leaders entering the Punjab ; and (c) the rigorous enforcement of the Press Act in the Punjab. We opine that while these matters may indicate a want of statesmanship, they do not amount to the crime of oppression.

Matters requiring very careful consideration are Sir Michael O'Dwyer's conduct in connection with the establishment and continuance of Martial Law in the Punjab. Here there is considerable difference of opinion between the members of the Hunter Committee. The views of the majority will be found in paragraphs 17 to 34 at pp. 72-75; and of the minority at pp. 103-110. It is unnecessary for us to express our own opinion as between these conflicting views. Accepting the views of the minority members, we do not consider that any criminal charge in respect of such matters could be established against Sir Michael O'Dwyer.

Another matter for consideration is Sir Michael O'Dwyer's conduct in connection with the administration of Martial Law during its continuance. The evidence shows that, in many cases, such administration was carried out in a tyrannous and oppressive manner, which is now admitted by the Government of India to have been without justification. But there is no evidence before us which justifies a charge that Sir Michael O'Dwyer was directly a party to, or authorised, the acts in question so as to be criminally responsible therefor. Take, for instance, the case of the use of aeroplanes at Gujranwala. It does appear that Sir Michael O'Dwyer directly concurred in the proposal to use aeroplanes; but this fact would not render him liable for the bombing of a school, and other unlawful acts done from aeroplanes which were despatched; and, under the circumstances existing as to the destruction of communications we do not think that the mere use of aeroplanes can be complained of as without justification.

After the best consideration we can give to the matter we are of opinion that there is no ground for any proceedings against Sir Michael O'Dwyer.

Next as to the Case Against Brigadier General Dyer.

The two episodes concerning General Dyer which are, in our view, of outstanding importance are the Jallianwala Bagh Shooting and the Crawling Order. There are other acts of this officer, which are open to grave animadversion:—his impressment of the pleaders as special constables (a measure apparently intended rather to humiliate the lawyers than to preserve order) is an example; but it appears to us preferable to concentrate upon these two outstanding episodes, and to pass by events of relatively minor importance; though we quite appreciate the real injury and wrong done to the sufferers on those occasions.

(a) As to the Jallianwala Bagh Shooting.

There is no dispute about the facts of this lamentable occurrence. General Dyer has made four statements: (a) A report not dated, but

apparently written on the 14th April 1919 (printed at p. 216 of Vol. III of the Hunter Committee Evidence); (b) a report dated 25th August 1919, (printed at pp. 201, 205 of the same Volume); (c) oral statements before the Hunter Committee (pp. 144-139 of the same Volume); and (d) his statement to the War Office, dated 3rd July 1920, recently printed as a parliamentary paper. For the purposes of this opinion we need scarcely travel outside the admissions made in these several statements.

It is not necessary here to travel through all the facts. The important (and undisputed) facts may be summarised as follows:

(1) There had been no acts of lawlessness or violence in Amritsar on 11th and 12th April.

(2) The crowd on the 13th April was unarmed, except so far as some persons may have been provided with *lathis*.

(3) When Dyer and his men came upon the scene, the crowd was not engaged in any act of violence, but was listening to some speech. Many, perhaps most, were squatting upon the ground.

(4) No act of hostility was committed by the crowd towards Dyer or any Military command.

(5) No order was given to the crowd to disperse, nor any warning that the Military were about to fire.

(6) When the firing started, the crowd, panic-stricken, commenced to disperse. Still no act of hostility was attempted towards Dyer or his force.

(7) The firing was continued, although the crowd was dispersing, so long as the ammunition lasted, save the small quantity retained in accordance with custom.

Under these circumstances, nearly 400 lives were lost, and an unascertained number of persons wounded.

Dyer Guilty of wilful Murder.

The occurrence can only be designated as a massacre. Brigadier-General Dyer was present and the firing took place by his direct personal command. Unless there is some legal excuse or justification, there can be no question that Brigadier-General Dyer was guilty, not merely of oppression, but of the crime of wilful murder.

Then the question arises, has General Dyer alleged, or do his statements disclose any ground of legal excuse or justification.

At pp. 12 and 13 of his deliberate and carefully framed statement of 3rd July 1920, Brigadier-General Dyer has presented seven propositions lettered (a) to (g) as containing a fair summary of the motives and grounds of his action. The propositions lettered (b) and (e) are made for the first time. They are not only not supported by any evidence but they are contradicted by all the relevant facts;

they are obviously mere afterthoughts. Upon the evidence before us, we have no hesitation in characterising them as mere inventions and plain untruths. The reference to the unarmed crowd as 'the rebel army in front of me' is more than an exaggeration. It is absurd, and it is untrue.

The propositions lettered (d) to (g) are based upon the proposition (b) and (c), and fall with them. The reference to the unarmed crowd, squatting and listening to some speech, which commenced to disperse as soon as the firing started, as 'the large determined and defiant assembly before me' is again a most untrue and misleading statement.

This leaves only the proposition lettered (a) referred to as 'the general situation' and 'its attendant military dangers.'

The Brigadier's earlier statements, which are less artificial, and bear a stronger impress of truth, show that the proposition (a) contains, and alone contains his real motive and ground of action.

The central fact to be extracted from all the Brigadier's statements is that he was of opinion that there existed a revolutionary outbreak, and that now was his opportunity. His own words in his statement of 25th August, 1919, (p. 103 of Vol. 3 of evidence before the Hunter Committee at foot of first column), are :

'I fired and continued to fire until the crowd dispersed, and I consider this is the least amount of firing which would produce the necessary moral and widespread effect it was my duty to produce, if I was to justify my action. If more troops had been at hand, the casualties would have been greater in proportion. It was no longer a question of merely dispersing the crowd but of one of producing a sufficient moral effect, from a military point of view, not only on those who were present but more specially throughout the Punjab. There could be no question of undue severity.'

In his statement to the Hunter Committee he said (Vol. 3 p. 123 col. 1) that, when thinking over his line of conduct while on his way to and before he had reached the Bagh, 'I had made up my mind that I would "do all men to death" if they were going to continue the meeting' and admits that, in pursuance of this scheme, he from time to time directed his firing to the places where the crowds struggling to escape were thickest (p. 123, col. 1) and on p. 126, column 2, "I was going to give them a lesson."

'I was going to punish them!' 'My idea was to make a wide impression throughout the Punjab' 'I wanted to reduce the moral of the rebels.'

Having very carefully considered the whole of the evidence, both that before the Hunter Committee, and that collected by the Congress Committee, we think there can be no doubt as to the

correctness of the conclusion come to, both by the majority members (pp. 63, 68) and the minority (p. 93) that there is no proof of any organized rebellion or conspiracy to overthrow the British Government. That there was much unrest, brought to a head by recent legislation, and by proceedings against certain popular leaders, is undoubted (see Majority Report, pp. 57-63; and Minority Report, pp. 19-97). The rioting serious, reprehensible, and (in its effect) terrible, as it was, was local and sporadic.

Alleged 'Rebellion' no justification for Massacre of unarmed Crowds.

But we do not propose to deal with or discuss the evidence bearing upon this question, for if Brigadier General Dyer's view had been correct, if there had been, on the 13th of April 1919, an organized rebellion within the Punjab, that fact would not have justified Dyer's conduct or the massacre he perpetrated. The crowd on whom he fired was, by his own admission, unarmed, and not engaged in any act of violence; nor did it, upon the appearance of Dyer and his force, undertake any act of hostility against him or them. The only Common Law justification or excuse for the use of force is to meet and repress illegal force resorted to for the purpose of crime. A rebel in arms stands in the position of a public enemy, who may be killed in battle, as a foreign enemy may be killed. As Lord Coke said in the House of Commons debate on the Petition of Rights: 'a rebel may be slain in the rebellion.' The admitted facts as to the conduct of this unarmed crowd show how utterly Dyer's conduct was without justification by the Common Law doctrine.

In our opinion, the alleged justification based upon the existence of an organized rebellion entirely falls: both upon the facts (for there is no evidence of such an organized rebellion) and upon the law, for if such a rebellion had existed, it would not have justified Dyer in firing upon an unarmed crowd not engaged in any hostile act.

But apart from the Common Law Doctrine, the Provisions of a Statute, chapter IX of the Criminal Procedure Code of India [Act V of 1898], have to be considered. This chapter deals with 'unlawful assemblies,' and empowers the authority mentioned to cause such an assembly to be dispersed by Military force, provided certain statutory conditions exist, although there may be no rebellion in existence.

The statutory conditions referred to may be summarized as follows:—(1) there must be unlawful assembly, or assembly likely to cause a disturbance of the public peace; (2) it must be called upon to disperse; (3) it must refuse to disperse; (4) the circumstances must be such that the assembly can not be dispersed without the use of military force; (5) public security must be manifestly

endangered by the assembly and it must be necessary for the public security that it should be dispersed.

Whether Brigadier General Dyer purported to act, or thought he was acting under this statute, is, we think, extremely doubtful. In our view, he was not purporting so to act. But assume that he did purport so to act: and assume further that condition (1) was satisfied; it is perfectly plain that conditions (2) (3) (4), did not exist. It is therefore unnecessary to consider whether condition (5) existed.

No justification therefore can be established under the statute.

In passing, we may refer to the Army Regulations, India. Para 572 sets out the provisions of chapter IX of the Code of Criminal Procedure, and para 573 of which the marginal note is 'firing on an unlawful assembly,' contains the following:—'the O.C. the troops... will, before taking action, adopt the most effectual measures possible to explain to the people that the fire of the troops will be effective; the firing must be stopped the moment it becomes unnecessary.'

When Dyer's oral statements before the Hunter Committee (some of which are above set out) are compared with the provisions of this Regulation, it will be seen at once how excessive and without justification his conduct was, even if he purported to be acting under the statute.

In the result we have no doubt that Brigadier-General Dyer was guilty of wilful murder of the subjects of his Majesty the King-Emperor who were shot and killed by his order to the number of nearly 400, on 13th April 1919, at Amritsar.

Further, we have no doubt that, in ordering his force to fire upon the unarmed crowd in the circumstances above mentioned, Brigadier-General Dyer was guilty of most cruel and tyrannous oppression, of gross and wanton inhumanity, constituting a misdemeanour under the Government of India Act 1919 (see section 124A.) The next question is what proceedings should be taken to bring this officer to justice for the crimes of which he has been guilty.

We do not deal here with any proceedings which it may be competent to take in India, but confine ourselves to the question of proceedings in England.

We pass by the Governor's Act 42 Geo. 3 C. 85 though its terms are wide enough to offences committed in India. It appears that India has been the subject of specific enactments; formerly 13 Geo. Ch. 63 section 69, and 27 Geo. 3 sec. 2 C. 25; and now the Government of India Act 1915 sec. 127.

In our opinion, criminal proceedings may be taken against Brigadier-General Dyer in the High Court of Justice in England under sec. 127 of the Act of 1915 both in respect of the oppression

done and misdemeanour committed by him. Whether the proceedings should be based on both the matters mentioned, or on one only, and which, is a matter which should receive very careful consideration. Our own view at present, based on a consideration of the procedure and evidence at the trial, is that there would be practical advantage in confining the charge to one of misdemeanour based on the oppression alone.

In our opinion, if an indictment either for murder or for oppression got to a jury, they would not only be justified in finding but ought to find a verdict of 'guilty'. Whether a jury would so find, it is of course impossible for us to prophesy. The defence would, no doubt, endeavour (and probably with more or less success) to introduce a number of topics based on racial and political prejudices, which might lead the jury astray. Nor do we forget that in both the cases arising out of the Jamaica riots (*R. v. Nelson*, in which the Grand Jury were charged by L. C. J. Cockburn, and *R. v. Eyre* in which the charge was by Mr. Justice Blackburn) the bills preferred were ignored. We cannot say more than that, in our opinion, if no technical defences are established, there will be a strong case upon the facts to go to the jury, upon which they ought to find a verdict of guilty.

From the above qualification of the expression of our opinion it will be seen that we anticipate the raising of technical defences, with a view to preventing the charge from going to the jury on the merit. We will deal with these in the following way :—

(1) By sect 132 of the Criminal Procedure Code (Act V of 1898) it is enacted that no prosecution against any person for any act purporting to be done under chapter 9 of that Act shall be instituted in any criminal court, except with the sanction of the Governor-General in Council.

It may be that the Governor General in Council would give the necessary sanction. If so, no difficulty would be caused by the above enactment. But, if sanction be refused, what will be the effect upon the prosecution?

The question would be, whether the prosecution was for an act purporting to be done under section 131. That would raise a question of fact. Section 131 assumes that civil power is still in existence and in control, that military power is subordinate and assistant; and that the only reason why a Civil Magistrate is not acting on the particular occasion is that it is not at the moment practicable to communicate with one.

Brigadier General Dyer's evidence shows that this was not at all the state of things, and was known by him not to be the state of things in Amritsar on 13th April, at the time of the firing. On p. 114

of Vol. 3 of the evidence before the Hunter Committee (2nd col.) he states plainly that the position was that civil law was at an end, that military had taken its place for the time and that he was under no necessity of consulting the civil authority. On page 122 (col. 1) he says the position was that he was not dealing with an unlawful assembly that could have been stopped with military assistance, but with an open rebellion; that he was in control, that the civil authorities were assisting him and not he the civil authorities. Similar statements will be found on p. 125 column 1 and p. 136 col. 2.

It seems clear upon these admissions that this officer was not purporting to act under chap. 9 of the Code at all; so that no question of obtaining the sanction of the Governor-General will arise.

It is, therefore, unnecessary to deal with two further points which might be urged viz. (a) that the sanction is a mere matter of procedure, part of the *lex fori*, and therefore not required for an English proceeding; (b) that the Indian legislature cannot impose a condition upon proceedings in England for the punishment of an act which is a crime according to English law.

(2) By section 132 of the same Code, it is also enacted that (b) no officer acting under section 131 in good faith shall be deemed to have committed an offence.

For the reasons above mentioned, Brigadier General Dyer was not acting under section 131 at all; therefore he can derive no protection from this enactment.

Further we are of opinion that Brigadier General Dyer acted 'without due care and attention,' and therefore not in good faith; see Criminal Procedure Code, section 4 (sub-section 2) incorporating the definition clauses of the Indian Penal Code (Act XLV of 1860), whereof section 52 defines the meaning of the expression 'done in good faith.'

The result as to (1) and (2) is that in our opinion, the provisions of section 132 of the Criminal Procedure Code of India will not avail Brigadier General Dyer to prevent the charges against him from being submitted to the jury.

(3) Next, we propose to deal with the Indian Indemnity Act No. XXVII of 1919.

The existence of the Act gives rise to a very important question, on which there has been no judicial decision, but an intimation of judicial doubt, viz., 'whether when an act has been done which, according to an act of Imperial Legislature, is triable as a crime in England, the legislature of the dependency where the act was done (e.g., as here the Governor General in Council) can undo the effect of that act as a crime, and so prevent it being tried in England. In the

civil action of *Philips v. Eyre* (L. R., 4 Q B 225, and 6 Q B 1), it was held that an Act of Indemnity of the Colonial legislature of Jamaica was a good defence to a civil action in England, but its effect in a criminal proceeding in England was expressly kept open (see L. R. 6 Q. B. 21), and in his charge to the Grand Jury in *R. v. Eyre*, Blackburn J. stated he would not express any opinion on the point, on which he had a grave and serious doubt.

The point may be excluded by an Order in Council made under sect. 7 sub sec. 2 of the (Imperial) Indemnity Act, 1920, which may validate the Indemnity Act. But in the absence of such an Order in Council, our own view not expressed without doubt, is that the Indian Indemnity Act though it would avail Brigadier General Dyer in a prosecution in India, will not avail him in a prosecution in the High Court of Justice in England. Oppression by a person employed by the Crown in a British dependency is a crime in England both at Common Law and by Imperial statute and is by Imperial statute made justifiable in England. In our opinion such English law can not be over-ridden or its effect undone, by the act of a dependent legislature.

But it seems proper, in case a different view should prevail, to express our opinion as to the effect of this act, should it be held applicable.

Referring to the provisions of section 2, we think (a) that Amritsar was, on the 13th April, a place where martial law was enforced within the meaning of the section, i.e., *de facto*: although martial law had not, on that date, been established there under the provision of Bengal Reg. X of 1804; (b) that it would be held that the firing question was an act purporting to have been done for the purpose of maintaining or restoring order in some part of British India (c) we do not think it would be disproved (see sect. 3.) that Brigadier General Dyer acted 'in good faith,' i.e., honestly and 'in the belief that his action was necessary for maintaining or restoring order in some part of British India.' The definition of good faith applicable to this Act is that in sub-section 20 of section 3 of the General Clauses Act (No. X of 1897), which makes the test of 'good faith' that the act was in fact done 'honestly', whether done 'negligently or not.'

The question would therefore come to be (d) whether Dyer's belief, which we assume, that action was necessary for maintaining or restoring order in some part of British India where martial law was enforced, was a 'reasonable belief.' Under section 3 'reasonable belief' is to be assumed, unless the contrary is proved.

'reasonable' is a question of fact. But we take the view that the order mentioned in section 2 is not necessarily confined to dis-

persing the crowd collected in Jallianwala Bagh on 13th April and it may not even be confined to Amritsar; it may extend to the whole of the Punjab, in which martial law was enforced it may even not be confined to the Punjab. And, obviously the wider the area which Dyer was entitled to consider, the greater the difficulty in disproving the reasonableness of belief as to the proper mode of maintaining or restoring order in such area. We doubt the prosecution being able to persuade a jury that Dyer's assumed belief that what he did was necessary for maintaining or restoring order in British India was not a reasonable belief.

The result as to [3] is that in our opinion, in the absence of an Order in Council under section 7 of the Act of 1920, the Indian Indemnity Act will be held not applicable to the case of a prosecution in England, and will not avail Brigadier-General Dyer to prevent the charges against him from being submitted to the jury. But if the contrary view should prevail, or if an order in Council should be made, and Dyer should be held entitled to the benefit of this act by way of answer to a prosecution in England, then, the probable result will be that the Act will be fatal to the prosecution, and prevent the case from being laid before the jury upon the merits.

[4] Lastly, it is necessary to consider the English Act of Indemnity, 1920 [10 and 11 Geo. 5 C 48]. The relevant provisions are in the early part preceding the proviso of subsection I of sect I.

To entitle Brigadier-General Dyer to the benefit of this Indemnity Act, the following facts must appear.

[a] that his act was done in good faith, that is honestly. Under sub-section 3 of sect 1, this is assumed unless the contrary is proved. We do not think the prosecution will be able to prove the contrary.

[b] that the act purported to be done by him [i] in the execution of his duty, or [ii] for the defence of the Realm or the public safety: or [iii] otherwise in the public interest. The expression 'purported to be done' refers to the intention, scheme, or design of the doer; and if Brigadier-General Dyer proves that, in doing what he did, he intended to act, and honestly believed that he was acting, as mentioned in [i] or [ii] or [iii] he will bring himself within the Indemnity given by the Act.

The opinion we have formed upon reading Dyer's evidence and written statements is that wrong as he was he was honest and did honestly intend to act, and honestly believed that he was acting as mentioned above. It is however enough to say that we think upon the material before us, there is no real chance of persuading a jury to the contrary.

The result as to [4] is that in our opinion, the English Indemnity

Act of 1920 would be fatal to a prosecution and prevent the merits of the case from being laid before the jury.

It does not occur to us that we can usefully add anything further as to the question arising out of the Jallianwala Bagh shooting.

The Crawling Order

The other part of the case against Brigadier-General Dyer rests upon the Crawling order.

There is no dispute as to the facts. Dyer's statements as to the matter will be found [a] in his statement on 25th August 1919, at p. 205 of Vol 3 of the evidence taken by the Hunter Committee; [b] in his oral statement before the Hunter Committee at pp. 120, 121, 123, 124, 127, 130, 139, of the same Vol and [c] at pp. 17, 18 of his statement to the War Office dated 3rd July 1920.

The views of the majority of the Hunter Committee as to this episode will be found at p. 83 of the Report; and of the minority at pp. 121, 125. The views of the Secretary of State are stated at the top of p. 25 of the Correspondence.

It is not necessary to recapitulate all the facts. Those most material to be borne in mind are:

[1] That the order was issued on 19th April [though it is admitted that all had been quiet in Amritsar since 13th], and was continued until 26th April.

[2] During this period it was enforced by picquets of soldiers stationed at each end of the street from 6 a. m., to 8 p. m.

[3] The street in question appears to be about 150 yards long, and has houses on both sides of varying heights; and is thickly populated.

[4] In most, and probably in the large majority of cases, there is no access to any house except by the street in question.

[5] On 26th April the order was withdrawn on the instructions of the Punjab Government, who disapproved of it.

There is no proof, indeed there is, hardly a suggestion, that the inhabitants of the houses in the streets whose ordinary occasions involved a passage along the street, had participated in the attack on Miss Sherwood or indeed in any other of the illegal outbreaks on the 10th April. So far as any intelligible explanation of this outrageous proceeding can be obtained from Dyer's several statements, it would appear that Dyer's view was 'Amritsar had behaved very badly; and I think most of the inhabitants of Amritsar either gave assistance, or were only waiting to see what was going to happen apparently.' 'I do not think it a very great inconvenience for them' [i. e., the dwellers in the street] 'if they had to suffer a

little for all that Amritsar had done. I thought it would do no harm under martial law.' Truly a strange mental condition of the officer entrusted with the administration of martial law over a wide and populous district. The majority of the Hunter Committee criticize the order on the ground that it 'unnecessarily punished the innocent as well as the guilty.' The condemnation of the Secretary of State [p. 25 of correspondence] is more in consonance with the facts, and more adequate in expression; inflicted, as it was, upon persons who had no connection with that crime, with the object of impressing upon the public of Amritsar through the humiliation of those persons, the enormity of the crime committed by certain individuals of that public, the order offended against every canon of civilized Government. And see the observation in para 6 of the same despatch hereafter quoted. In truth, the order was not directed against the guilty at all; but against those against whom no charge of any kind was made.

An Unjust and Tyrannical Exercise of Power.

In our opinion, the order made and enforced under Brigadier-General Dyer's directions was an unjust and tyrannical exercise of power over those who were subjected to his authority, which amounted to an "oppression" of such subjects within the meaning of the Government of India Act 1915 S. 124 sub sec 1, so as to constitute a misdemeanour under that Act. In respect of that misdemeanour, Dyer may be indicted before the High Court of Justice in England, under sec. 127 of that Act. If, after due consideration of what we have said as to the charge in respect of the Jallianwalla Bagh shooting, an indictment is preferred in respect of that charge, the indictment should contain a separate count in respect of the Crawling Order and the enforcement thereof. If, on the other hand, no indictment is preferred in respect of the shooting, it will then be necessary to consider whether the prosecutors will prefer an indictment in respect of the Crawling Order alone.

It remains to consider the effect of the Indemnity Acts already referred to, upon an indictment in respect of the Crawling Order.

As to [i] the Indian Indemnity Act, we have above advised that it will not avail Dyer in a prosecution in the High Court of Justice in England. Even if that view should not be adopted, we are of opinion that this Act would not apply to the case, on the grounds [i] that the Crawling Order and enforcement thereof was not ordered or done, or purported to be ordered or done, for the purpose of maintaining or restoring order, [ii] that Dyer did not act in the belief that his action was necessary for the said purpose, [iii] such belief, if it existed, would not have been reasonable.

As to [2] the English Indemnity Act, we are of opinion that it will not void the prosecution, on the ground that the Crawling Order and the enforcement thereof was not done, or purported to be done, for any of the purposes mentioned in sub-section I of the Act.

As to both Indemnity Acts, we are further of opinion that it ought to be held that Dyer did not act 'in good faith' within the meaning of either; but acted in a merely wanton, cruel, capricious, and tyrannous manner, and without regard to any public interest to be served, or public advantage to be obtained.

The result, in our opinion, is that, if Brigadier-General Dyer be indicated for an offence, in respect of the Crawling Order and enforcement thereof there would be a case to go to the jury; the Indemnity Acts would not apply; the prosecutor would be entitled to have the cases submitted to the jury; and in our opinion, the jury ought to find a verdict of guilty. But how a jury would deal with the case we cannot, of course, predict.

What should be done.

If a prosecution should be instituted in respect of the Crawling Order and the enforcement thereof, very full and complete evidence must be laid before the jury as to the enforcement of the Order, and the effect thereof upon the residents in the street, and those having occasion to use the street. We mean the effect, physically, materially, morally, and mentally. Without such evidence, the true operation of the order as an act of oppression and a statutory offence cannot be rightly appreciated. Not a great deal of evidence of this class was given before the Hunter Committee. A good deal was given before the All India Congress Commission. It would seem premature at present, to advice upon the details of the evidence to be adduced; but, if it is decided to prosecute in respect of the Crawling Order and its enforcement, evidence should continue to be collected upon the lines of that given before the All India Congress Commission, showing [1] the humiliating character of the act and its effect upon the native mind; [2] the absurdity of Dyer's suggestion that he wanted to attach a 'special sanctity' to the crowded street of dwellings and have it regarded as holy [3] the inability of the residents to get food, water, medical attendance, and other necessities; [4] the insanitary results from absence of street sweepers, accumulation of insanitary refuse, impossibility of cleaning latrines, etc., [5] all other matters bearing upon the effect of the Orders as enforced.

Messrs Kitchen and Miles Irving

Next—As to Mr. Kitchen, the Commissioner, and Mr. Miles Irving, the deputy Commissioner, we find no ground for advising that any offence has been committed by them, or either of them.

The real criticism of their conduct seems to be that they did not rise to the occasion but too readily abdicated their civil function and made room for the military.

Conclusion

Lastly.—We will deal with a number of cases which may conveniently be considered together under the heading of "Orders made and acts done under the assumed authority of martial law."

We have most carefully perused and considered the evidence bearing upon this matter and have especially considered the cases of [a] the Crawling Order of Brigadier-General Dyer at Amritsar, dealt with above [b] General Campbell's salaming order issued at Gujranwala; [c] the order of Lieutenant-Colonel Johnson at Lahore particularly those dealing with the students; [d] Lieutenant-Colonel O'Brien's orders for reprisal against the persons and property of innocent relatives of accused persons; [e] the order of Major B. Smith as to parades by school boys and infants of tender years in Gujranwala and other districts; [f] the flogging by Lieutenant-Colonel Mearns of school boys at Kasur; [g] Cosworth Smith's treatment of Indian women at Manianwala; [h] fancy punishments invented and inflicted by Captain Doveton and others.

In none of these cases, and the same observation applies to many others, had the orders made or punishments inflicted any real relation to the purpose of maintaining or restoring order. No attempt was made to discriminate between the innocent and the guilty; and it is apparent that, in the great majority of cases, the punishments fell on innocent persons, and sometimes to the exclusion of the guilty. Indeed, in some cases, the punishments were expressly inflicted on the innocent, because the guilty were out of reach. In many cases the punishments inflicted were insulting and humiliating to an extreme degree.

The justice of this view is admitted by the Government of India in its despatch dated 3rd May, 1920 para 41 at p. 20 of the correspondence, where the statement occurs. We accept the view that the administration of martial law in the Punjab was marked in particular instances by a misuse of power, by irregularities and by injudicious and irresponsible acts.

His Majesty's Government also in the Secretary of State's reply to this despatch 'express strong disapproval of these orders and punishments' [para 6 at p. 20 of the correspondence] and the instances cited by the Committee give justifiable ground for the assertion that the administration of martial law in the Punjab was marked by a spirit which promoted not general but unfortunately not uncommonly the enforcement of punishments and orders calcu-

culated, if not intended, to humiliate Indians as a race, to cause unwarranted inconveniences amounting on occasion to injustice, and to flout standards of propriety and humanity which the inhabitants, not only of India in particular, but of the civilized world in general, have a right to demand of those set in authority over them.

We have no doubt, that in many, perhaps all, of the cases above mentioned, the conduct of the officer was so unjust, so cruel, so tyrannous and so wanting in humanity as to amount to 'oppression' within the meaning of the Statute of 1915, and to be a misdemeanour punishable criminally in England as well as in India.

Nor, in our opinion, will either Indemnity Act assist the offender.

But then, except as to Dyer's Crawling Order already fully discussed, the question arises, whether it is worth while to endeavour to bring the persons named, or any one of them, to trial in England. The costs would be enormous; the risk of a miscarriage of justice not inconsiderable. This is a matter rather for the decision of the National Congress than for the opinion of Counsel. But it may assist deliberation, if we express our opinion that, upon the whole, it would be better to endeavour to bring retribution for their inhuman conduct upon these men, by pressing upon the Government of India the duty of inflicting punishment upon them in accordance with the directions in paragraph 6 of the despatch of the Secretary of State, dated 26th May 1920.

Sd. W. H. UPJOHN,
Sd. GRAND S. SANDERS,
Sd. B. DUBE,

8th September, 1920.



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