

Wednesday, October 16, 1878

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

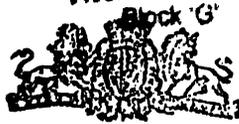
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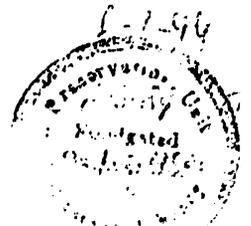


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1879.



*Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67. **

The Council met at Government House on Wednesday, the 16th October, 1878.

PRESENT :

His Excellency the Viceroy and Governor General of India, G.M.S.I., *presiding*.

His Honour the Lieutenant-Governor of the Panjáb, C.S.I.

His Excellency the Commander-in-Chief, G.C.B.

The Hon'ble Sir A. J. Arbuthnot, K.C.S.I.

Colonel the Hon'ble Sir Andrew Clarke, B.E., K.C.M.G., C.B.

The Hon'ble Whitley Stokes, C.S.I.

The Hon'ble A. R. Thompson, C.S.I.

Lieutenant-General the Hon'ble Sir S. J. Browne, K.C.S.I., C.B., V.C.

The Hon'ble B. W. Colvin.

The Hon'ble T. H. Thornton, D.C.L., C.S.I.

The Hon'ble F. R. Cockerell.

The Hon'ble G. H. M. Batten.

VERNAACULAR PRESS ACT AMENDMENT BILL.

The Hon'ble SIR ALEXANDER ARBUTHNOT moved that the Bill to amend Act No. IX of 1878 (*for the better control of Publications in Oriental languages*) be taken into consideration. He said:—"When I obtained leave to introduce this Bill, I explained the circumstances under which the Bill had been framed and the particular point on which the Secretary of State had desired that the Act passed in March last should be amended, and I said that I would take the opportunity of moving the further consideration of the Bill, to offer a few remarks with reference to the working of the Act which it is now proposed to amend, and also with reference to the discussions which have taken place regarding that measure since it was passed. Seven months have now elapsed since the Vernacular Press Act became law, and with the exception of certain proceedings which, owing to an unfortunate misapprehension, were instituted in one Province regarding certain writings which had been published before the passing of the Act, but which proceedings were promptly withdrawn, there has been no necessity for bringing the Act into operation in any single instance. The Act, in this respect, has so far justified—and indeed has more than justified—the hope which I ventured

to express when it was passed, that the mere existence of this law would, in a great measure, suffice to repress the mischief against which it is aimed, and that the actual enforcement of its provisions would be a thing of very rare occurrence. As a matter of fact, seditious and disloyal writing—writing calculated to inflame the minds of the masses and to bring the Government into contempt—has been entirely stopped. At the same time there has been no interference with the legitimate expression of opinion. The liberty of the Press has not been in any way restricted. It might have been apprehended, and the apprehension would not have been unreasonable, that, for a time at all events, the result of passing the present law would have been different; that as a matter of fact there would have been some restriction on that free criticism of the measures of the Government and the acts of the public officers which every well-wisher of good administration would desire to encourage. By many persons it has been assumed, and it is still assumed, that such must be, and that such has been, the natural result. It is constantly alleged that the Vernacular Press has been gagged; that the Native Press has been silenced.

“ I am bound to say that, in the case of persons at a distance—in the case of English statesmen who have no opportunity of knowing what is actually going on on the spot—such impressions are by no means unreasonable. But to those who are acquainted with the actual state of things—to those who have the opportunity of seeing the vernacular newspapers, or the extracts from them which are periodically printed—it must, by this time, be apparent that the result which might have been apprehended, has not occurred. To them it must be clear that the assumption to which I have alluded, is altogether unfounded and that for all the purposes of legitimate discussion and criticism the Native Press is as free as it ever has been. I need only allude to the comments which have been constantly made in the vernacular newspapers on the Press Act, on the License-tax, and on the Arms Act, to show that on all these matters, and I may add on other questions in regard to which there has been difference of opinion, in regard to which the measures of Government are objected to, either by the community in general or by particular classes, there is still the freest and the most unreserved criticism and comment. This, my Lord, so far as we can form a judgment from the history of the past seven months, has been the result, and I cannot but think that it is a result which must be regarded as very satisfactory. The Act, which in many quarters has been so vigorously condemned, has entirely succeeded in its object of checking seditious writing, and has in no way restricted or diminished the legitimate freedom of the Press.

“ My Lord, it has been said, and the opinion appears to be very generally entertained, that, in directing the amendment of the Act for which this Bill provides, and in the remarks contained in the despatch which the Secretary of

State addressed to the Government of India in June last, there was a practical condemnation of the Vernacular Press Act. It appears to me that those who hold this opinion, can hardly have studied the despatch with care. It is impossible, I think, to read the sixth and eighth paragraphs of the despatch with any care or attention, without being forced to the conclusion that, so far from disapproving of the policy of the measure, the Secretary of State emphatically approved of it. In the sixth paragraph of the despatch, Lord Cranbrook writes that he is bound to say that 'a strong case appears to be established for 'the further control of the class of newspapers at which the Act is aimed;' and, after noticing the arguments which were adduced by some of the speakers in this Council, His Lordship proceeds to add an argument of his own, which is to the effect that, 'remembering how few opportunities the experience of these 'writers has afforded them of understanding the limits of justifiable criticism, 'he is inclined to think that a system of pecuniary penalties, leviable under 'bonds, would be more applicable to their case than criminal prosecutions 'for an offence which may conceivably entail a punishment so heavy as transportation for life.'

"And here I may remark that the general approval of the principle and policy of such an Act as this is perfectly compatible with the disapproval of a particular and not very important provision in it, such as that which is expressed in the ninth paragraph of the despatch with reference to the censorship clauses, and which has led to the preparation of the Bill now before the Council.

"It would be idle to deny that the Vernacular Press Act has been received with disapproval by many persons whose opinions are entitled to the respectful consideration of this Council. Such a result was only to be expected. The measure is one which was not resolved on by the Government without great reluctance and regret, and it was not probable that a measure of this nature (I, certainly, for one, never indulged in such a delusion) would be received with acclamation. At first, it was supported by a certain portion of the English Press in India. It was condemned by the greater portion of that Press. As to the policy of the Act opinions differed. As to the mode in which the Act was passed—its being passed at a single sitting of the Council without the usual notice to the public—the disapproval and the condemnation were more general. The Act was, at first, very favourably received in England by an important section of the English Press; but it met with the emphatic disapproval of three eminent and experienced members of the Council of India; and, in the debate which took place in Parliament in the month of July last, in a house more than usually full, when it is considered that the subject for discussion was an Indian one, it was condemned by a minority, amounting to the comparatively large number of 152 members.

“ Well, my Lord, as, notwithstanding these expressions of disapproval—expressions of disapproval which have emanated from men of very various shades of opinion—it is not proposed to repeal the Act, and as notwithstanding all that has been said and written, the Government of India have not in any way receded from the opinion that the Act was a political necessity, it seems only right, and indeed it is only respectful to the authorities who have condemned the Act, that I should offer a few remarks with reference to the objections which have been taken.

“ In the first place, as to the mode in which the Act was passed, as to its having been passed through the Council at a single sitting without any previous intimation to the public that such a measure was contemplated, I will only say that, while the Government deemed it expedient that this course should be taken, and while they are still impressed with the necessity which led them to take this course, they perfectly recognise the fact that this is a question on which there is great room for difference of opinion; and they would greatly regret that the course which was taken in this case should be regarded as a precedent to be followed hereafter, save under circumstances of grave political emergency. There is no principle to which the Government of India attach a higher importance—there is no policy upon which they lay greater stress—than that of submitting their legislative projects to the freest and the fullest public discussion. They would greatly deplore any general departure from that policy; and if such a result were to follow from the course which it was deemed expedient to pursue on the occasion to which I am referring, they would regard it as seriously detrimental to the public interests and prejudicial to the efficiency of the administration.

“ Passing on to the policy of the measure, apart from the mode in which it was passed, I must be permitted to say that many of the objections which have been urged against it appear to me to have been based on a misapprehension of the actual facts. It has been alleged that the subject of restrictive regulations for the Press is much more a European than an Indian question. It has been said that ‘ sensitiveness under a tropical sun to harsh, ‘ unjust and often mendacious strictures in the Press amongst zealous and ‘ comparatively young officials is no more than might be expected. Under ‘ all despotic Governments the disposition to shackle the Press has prevailed. ‘ Increased age and experience of the little harm done by Press attacks ‘ when the measures of Government are sound in themselves produce a ‘ more robust temperament and a greater disposition to tolerate minor evils ‘ when they are the necessary accompaniments of larger benefits.’ And regarding the Members of this Council, it has been affirmed, as evidence of their incompetency to deal with such a subject, that they have no

practical knowledge of English political life. It has been said that among us there is not a single name known in connection with the history of English politics. My Lord, I feel bound to say that these remarks appear to me to betray a very inadequate apprehension of practical facts. In the first place, it strikes me as a somewhat strange thing to be told that the Members of this Council are too young to form a sound and calm judgment on a question of this nature. When, to take my own case, I remember that I have passed upwards of six and thirty years in the public service; when I reflect—and it is a sad and melancholy reflection—that several years have passed since I completed two-thirds of that period which is usually considered to be the average span of human life, I am amazed to learn that I am too juvenile to distinguish liberty from license, or to see the difference between the legitimate criticism of public men and measures and the preaching of sedition and disloyalty. Nor can I admit that the fact of most of us having passed the greater part of our lives in India disqualifies us from judging of the probable effects of seditious writings—of such writings as those which led to the passing of this Act—upon the natives of this country.

“ My Lord, there is one important distinction which appears to me to have entirely escaped the attention of all those who have condemned and disapproved of this Act. I refer to the distinction which exists between the English papers published in this country and the Vernacular papers, as regards the effect which they respectively produce on the minds of persons who are subjected to their attacks. It seems to be thought by many of those who have criticised and condemned our measure, that the Vernacular papers are commonly read and discussed in Anglo-Indian households, and that they form common topics of conversation in Anglo-Indian society. It seems to be supposed that when the *Anurita Bazar Patrika* attacks Mr. Brown of Bardwan for some extraordinary order in the Police Department, or when the *Dacca Prakash* abuses Mr. Jones of Patna, the subject is at once discussed at the Calcutta and Simla dinner tables. I need hardly say to the Members of this Council that such an impression is ridiculously wide of the mark. The truth is that the only Europeans who read or see the Vernacular newspapers are a limited number of officials, who study them as a part of their duty for the sake of obtaining any information that they may contain, or of acquiring an insight into the views or feelings of Native society, so far as such views or feelings are disclosed or represented in them. Socially, it may be said that they are unknown and unheard of in Anglo-Indian society. The case, as we all know, is quite different as regards the English papers; and I am bound to say that the allegations which have been made would have had a considerable show of reason—perhaps I might say a considerable amount of

reason—if the measure to which I am referring had included the English newspapers in the scope of its operation. The distinction seems to me to be an obvious one; but it has been overlooked even by those who ought to have been able to recognise it.

“Another misapprehension to which my attention has been drawn in considering this subject and in reading what has been said and written about it, is as to the extent of the circulation of the Vernacular newspapers. It seems to be supposed that, because we have a population (including, I presume, the Native States) of 240 millions of people, while the circulation of the Vernacular newspapers does not amount to more than 100,000 or 150,000, therefore that circulation must be regarded as totally insignificant. But the fact is that the circulation of Vernacular newspapers—and this is a fact perfectly well known to every one who has looked into the subject—is in no way limited by the number of copies actually struck off. The great majority of those who become acquainted with the contents of the Vernacular papers, do so, not by reading them, but by hearing them read. The mischief which is done by a single seditious article cannot be measured by the number of copies of it which has been printed.

“In some quarters a contrast has been instituted between the views which were held by the Government of India in 1835 and those held by the present Government of India in 1878, and attention has been specially directed to the opinions expressed and the remarks made by Lord Macaulay on the former occasion. Now I should like to ask those persons who institute that contrast, whether they feel at all certain that Lord Macaulay, if he had been alive and among us, would have been an opponent of the Act which we lately passed. It is quite clear that Lord Macaulay was by no means insensible to the possibility of peculiar circumstances arising which would render it necessary to resort to special measures for controlling the Press. When the question was under discussion in 1835, Lord Macaulay wrote that ‘if peculiar circumstances should arise, there would not be the smallest difficulty in providing measures adapted to the exigency.’ He remarked that ‘no Government in the world is better provided with the means of meeting extraordinary dangers by extraordinary precautions. Five persons, who may be brought together in half an hour, whose deliberations are secret, who are not stopped by any of those forms which elsewhere delay legislative measures, can, in a single sitting, make a law for stopping every Press in India.’ It appears to me that those who quote Lord Macaulay against the present Press Act are hardly warranted in assuming that he would not have regarded the disloyal features which have characterised the Vernacular Press for many years past, up to the time indeed of the passing of the present Act, as a sufficient justification, not for making a law for stopping every Press in India, but for making a law which should enable the Government

more easily to punish and to prevent the dissemination of sedition. In my humble opinion, the remarks made by Lord Macaulay more than forty years ago afford a strong presumption that if he were now here, filling the place at this moment occupied by my hon'ble colleague Mr. Stokes, he would have been a cordial supporter of the Vernacular Press Act.

“I must be permitted to say a few words regarding the extraordinary description which has been given in another place of the character of the writings which led to the passing of the Vernacular Press Act. It was said by the principal speaker in the debate to which I have referred, that, if he rightly understood the feeling of the Indians, they complained of particular acts, of the operation of particular laws, yet that there was nowhere a disposition to deny that British rule is beneficial to India. He also said that there was a good deal that was silly and frivolous, along with a good deal that was permissible, and a great deal that was positively useful, in the writings to which I refer. Now, I must assume that those who attacked the action of the Government of India on that occasion must have read the speeches made in the Legislative Council in Calcutta, and the quotations which were then given from writings in the Vernacular newspapers. But I observe that care was taken not to quote any of the extracts which were read in this Council, and this, perhaps, was prudent; for it appears to me that it would have greatly taxed the ingenuity of even the most eloquent orator and the most skilful debater of our time, to reconcile the sentiments conveyed in any one of those extracts with the hypothesis that there is nowhere a disposition to deny that British rule is beneficial to India.

“By another speaker it was affirmed that the writings complained of amounted to no more than dissatisfaction with the Government; and by another it was alleged that it was almost impossible to find anything in the Vernacular Press of India that could be called seditious in the real sense of that word. I will not take up the time of the Council by reading to it over again the quotations made in the speeches delivered on the 14th of March last, and which, in my opinion, have been so strangely misdescribed by the speakers to whom I have alluded; but I will take the liberty of reading to it a passage which occurred in a leading article of one of the Calcutta newspapers—a newspaper which is not commonly supposed to be friendly to the Government—a few days after the Act was passed. The passage is as follows:—

“Of late years, only too many of these papers seem to have devoted themselves wholly and solely to the task of sowing the seeds of disaffection in the minds of their readers. Their columns teem with invectives against the English Ráj and the English national character. The misery endured by the Native population under our rule is constantly dwelt on, and

studiously contrasted with the prosperity supposed to have existed under the Mogul Emperors, whose paternal administration is painted in the brightest colours. Ambiguous prophecies of England's loss of India are mingled with hints that our departure is likely to be expedited by either foreign invasion or a general rising of the people. One sentence calls attention to the numerical weakness of our army, which is put at less than half its strength; the next points out that this slender force has to hold a population of 250,000,000 in subjection. There can be no mistake as to the kind of application language like this is intended to have, however carefully the writer may avoid openly advising rebellion. Within the last year or two the number of these preachers of sedition has largely increased, their tone has grown perceptibly bolder, and both their attacks upon Government and their libels upon private persons have become more reckless. Such writings, circulated by thousands, as they are, cannot fail to exert a most mischievous influence on the feelings of the ignorant masses who depend on them for all the ideas on public affairs they possess. The germs of danger, latent and harmless now, may become truly formidable when fermented by the heat of a future period of political excitement.'

"Now, I cannot but think that, in the passage which I have just read, the Editor of the Calcutta newspaper manifested a far more just and correct appreciation of the real drift and meaning of the writings against which the Vernacular Press Act was directed than was manifested in the debate to which I have alluded. In that debate, and in a great deal that has been said and written on this subject, there is another distinction, and a very important one, which seems to me to have been entirely lost sight of. It is this, that the vast majority of the English papers, however violently they may attack men or measures, always attack them on their individual merits, treating them as accidental blots upon our system, while the Vernacular papers too frequently and too constantly treat the persons and things they denounce as the types and necessary results of a foreign rule, of the British Ráj, and assail our system as a whole. This is a most important distinction, which cannot be too constantly borne in mind.

"Since the publication of the Bill which I am now asking the Council to consider, several petitions and representations have been received by the Government, some of them urging the entire repeal of the Act, others suggesting radical alterations in it. The expediency of repealing the tenth section of the Act, which deals with publications as distinct from newspapers, is urged in many of these petitions. Another prayer of the petitioners is that the Bill should provide an appeal from any proceedings that may be instituted under the Act to the ordinary judicial tribunals. It is also alleged, and not without reason, in more than one of the petitions, that the amendment which is now being proposed in compliance with the instructions of the Secretary of State will make the Act more stringent.

"The Government have given their most careful consideration to all these representations and, as the Council are aware, they have postponed this debate

in order that there might be ample time for the consideration of these representations and of any others that might be received. But after having given the subject their most careful attention, they have not deemed it expedient to propose any further alterations, beyond the one single alteration for which the Bill provides, and which is proposed in compliance with the directions of the Secretary of State.

“It has been contended that the provisions of the tenth section of the Act will tend to arrest the development of Oriental literature. I need hardly say that the Government of India would greatly deplore such a result. In connection with our educational operation there is no subject to which the Government attach greater importance than the promotion of elementary education of an efficient kind, and, with this view, the formation of a sound Vernacular literature. But the Government do not see any reason whatever to apprehend that these most desirable objects will be in any way retarded by the operation of the Vernacular Press Act. They do not believe that this particular section of the Act will hinder the development of a sound vernacular literature, any more than its general provisions have interfered, up to the present date, with the legitimate freedom of the newspaper Press.

“The Government cannot entertain the proposal to throw open an appeal from proceedings under the Act to the ordinary judicial Courts. Such a provision would be entirely inconsistent with the policy of the Act, which policy is to substitute a summary procedure for the procedure which is provided for in the Indian Penal Code.

“My Lord, I think I have now noticed all the points to which it is desirable to advert in bringing this subject again before the Council. As I have already said, the Government consider the working of the Act during the few months that it has been on the Statute-book, to have been even more satisfactory than the most sanguine expectations could have foreseen. So far it has effectually repressed the evil against which it was aimed, while it has in no way interfered with or restricted the legitimate freedom of the Press. The subject is by no means free from difficulty. It is, indeed, one of those many difficult subjects with which the Government of India have constantly to deal. Only a few days ago I was reading in the memoir of an eminent and popular Minister, who belonged to a generation now passed away, a speech delivered by him many years since—delivered by him, it so happens, in the very year in which Sir Charles Metcalfe’s Act was passed. On that occasion the Minister, referring to the heavy responsibilities which all English Governments have to sustain, quoted, as applicable to the time at which he spoke, certain words which were

used by Mr. Burke in the British Parliament many years before. Those words were—

“ We may have rivals, we may have enemies; I do not fear the power of our rivals, I do not fear the greatness of our enemies; but there is one thing which I do fear, and that is our own power and our own greatness. Our Indian Empire is an awful thing.”

“ My Lord, the difficulties inherent in our Government of India have not diminished during the forty-three years which have elapsed since Lord Melbourne quoted those remarkable words of the most eminent political philosopher that the English nation has produced. The responsibilities of the Government of India have not decreased. They may be different in 1878 from what they were in 1835; but they are not less onerous, not less burdensome, to those whose duty it is to discharge them. It was with a profound sense of those difficulties and responsibilities—of our responsibility for maintaining peace and order in this great Empire—it was under the influence of a sincere desire to promote the well-being of the millions entrusted to our rule, that the Government of India brought forward the measure with which this Bill is connected. We claim that that measure shall be judged by its results, and we are sanguine that the judgment so formed will not be unfavourable.”

The Hon'ble MR. THORNTON said:—“ Before making the few observations I have to offer upon the motion immediately before the Council, I propose, with your Lordship's permission, to follow the example of the hon'ble the Mover and say a few words on the general subject of the enactment which has given rise to so much criticism both in England and in India. And I propose to do so, not because I can aspire to any special qualifications for defending the action of this Council or of the Government—not because I can hope to add anything of value to the able and exhaustive arguments of the last speaker—but because, being an Additional Member of your Lordship's Council—that is to say, a member in no way connected with the Executive Government, and consequently in no degree responsible for the original introduction of the measure—I am in a position to speak without suspicion of being in any way biassed by that feeling of paternal solicitude which may be presumed to animate the members of the Executive Government in favour of their own offspring.

“ And first, my Lord, I would venture to offer a humble tribute of admiration to the spirit of fairness and moderation which—subject to the exceptions noted by my hon'ble friend—seems to have generally characterised the debate in Parliament on the Vernacular Press Act of 1878. There is much in the sentiments expressed on that occasion by members of the opposition which commands my hearty sympathy—and indeed must command the hearty sympathy of all Englishmen; nevertheless, after having carefully reconsidered our

position in the light of the criticisms of Parliament and the Press, and after having carefully watched the effect of the enactment on the Vernacular Press of India, I have arrived, independently, at a conclusion similar to that at which the hon'ble the Mover has arrived, namely, that, however much we may regret the necessity for the measure, we have no reason to regret that it was passed.

“My Lord, all the able speakers who in the House of Commons disapproved of or denounced the proceedings of this Council laboured under one signal disability,—they knew nothing about India.”

The Hon'ble SIR ALEXANDER ARBUTHNOT.—“This is not quite correct. One of the speakers at all events (Sir George Campbell) know something about India.”

The Hon'ble MR. THORNTON.—“I said ‘able speakers;’ none of the able speakers knew anything about India: but I venture to express the opinion that the difference between India and England constitutes the entire justification, the entire *raison d'être*, of the measure under criticism.

“My Lord, having passed nearly twenty years of my life in the midst of the people of one of the provinces of India, sometimes in a judicial, sometimes in an executive, capacity, and latterly as Secretary to the Local Administration, I may, perhaps, without arrogance, lay claim to some acquaintance with the character and feelings of its population. Well, the general result of my somewhat protracted experience is that I know that the mass of the population of the Panjáb is prosperous and contented and exceedingly well-affected towards the British Government. Of course, it would be absurd to expect from an alien and lately conquered race the devotion which an Englishman feels towards his sovereign, or a Rájput towards his hereditary chief; still there can be no question that the people of the Panjáb are as well-affected to the British Government as an alien and conquered race can be. But, while I know this to be the case, I know also that the mass of the population is exceedingly simple, exceedingly child-like, exceedingly credulous and, especially in times of religious or political excitement, easily misled and agitated by the absurdest statements in the Native newspapers.

“Such, my Lord, are the general impressions I have formed after some years' residence in India; but I am well aware that no mere statement of personal impressions, however carefully, however deliberately those impressions may have been formed, will have the slightest influence on the opinion of the public unless their correctness is supported by facts or illustrations. I propose, therefore, to take up the time of the Council (but not, I trust, unprofitably) by

citing a few facts in support of my opinion—facts which may possibly enable the public to gather some idea of the exceeding credulity—the child-like simplicity—of a Panjābi newspaper audience.

“The first instance I will bring to the notice of the Council occurred some years ago—in the year 1861 or thereabouts. In or about that year a paragraph appeared in a Vernacular newspaper to the effect that it was believed to be the intention of the Right Hon’ble the Secretary of State for India to issue a proclamation ordering that, within a certain period, every male inhabitant of India should procure for himself and wear that species of European habili-ment designated in colloquial phrase a “chimney-pot;” and that any person failing, within the period prescribed, to comply with the provisions of the ordinance would be liable to the pains and penalties of the Indian Penal Code. My Lord, it will hardly be believed, but it is the fact, that this absurd statement caused no small stir amongst the population of the Panjāb.

“The second instance with which I will trouble the Council is of more recent date, but affords, I regret to say, no indication of diminution in the credulous simplicity of the Panjābi. Two or three years ago the General commanding the Lahore Division, who had been devoting his attention to the important subject of transporting artillery and military stores by railway, resolved to test the efficacy of his arrangements by taking (one morning) a battery of artillery and its accompaniments by railway from Lahore to the neighbouring city of Amritsar. Well, the intention of the General commanding at Lahore was communicated to the local English newspaper. This newspaper, my Lord, whatever may be its merits, and I doubt not they are great and numerous, was not usually addicted to pleasantry or humour of any sort; but on this occasion the Lahore journal for once belied its character and unfortunately perpetrated a joke. It announced the intention of the military authorities by saying that ‘the General commanding the Lahore Division would next day take the city of Amritsar by storm.’ The joke, such as it was, appeared literally translated in the Vernacular newspapers, and so reached the ears of the people of Amritsar. And what did the citizens of that great city do? Well, I will tell your Lordship what they did *not* do; they did not take the matter as a joke at all. They were filled with consternation. Shops were closed, business was suspended, and the public mind much agitated, until assured by the civil authorities that the General commanding the Lahore Division had no serious intention of blowing the city of Amritsar about the ears of its peaceful citizens.

“Many other instances of similar credulity might be adduced; but I will content myself with one other illustration—an illustration intended to give the public some idea of the stage of mental development at which the mass of our

population has arrived. I will read, then, to the Council the substance of an article—a leading article—which appeared a few weeks ago in the columns of a Vernacular newspaper published in a city which aspires to be the most advanced and the most intelligent of all the cities under the administration of my hon'ble friend upon the left—I mean the city of Delhi. In that city is published a Vernacular newspaper which goes by the name of the *Mihr-i-Darakhshān* or 'Flashing Sun.' In the pages of this brilliant periodical there appeared in the month of July last an article the object of which is to prove the race-identity between the Hindu and the Englishman. This proposition, my Lord, is supported, is seriously supported, by the following arguments:—

“Argument the first.—‘There is a tribe of people in Europe called the Dutch—*Daksha* is the name of one of the sons of Brahma.’

“Argument the second.—‘In the Urdu language *Khatrin* means a woman of the *Khatri* caste—one of the wives of King Henry the Eighth of England was called *Katherine*.’

“Argument the third.—‘Both Englishmen and Hindus’—bathe daily.

“Argument the fourth.—‘Both Englishmen and Hindus—eat pork. *Bārāh* or *the hog* is the name of an incarnation of Vishnu; and *Bacon* is a common name in England.

Argument the fifth.—‘English women and Hindu women—wear petticoats.’

“And now comes an argument which our author evidently considers (to use a familiar phrase) the clincher. It is as follows: ‘Some Hindus wear the Brahmanical thread—Englishmen wear braces.’

“My Lord, the audience which believed the newspaper hoaxes of 1861 and 1875—the audience to which the double-distilled rubbish I have just quoted is seriously addressed—is the population we had in view—at any rate it is the population the present speaker had in view—when we passed the Vernacular Press Act of 1878. Few will, I think, deny that a population such as this requires to be specially protected from seditious and inflammatory statements in the Native newspapers, and that utterances which may be treated with contempt in more advanced communities may be fraught with mischief or even with danger here.

“But some of our critics, while not denying the expediency of legislation for securing a more stringent control than heretofore over the Vernacular Press of India, have taken exception to some of the provisions of our enactment; and they have taken special exception to the provision which vests certain powers over the Vernacular Press—that is to say, powers for preventing the

circulation of seditious or inflammatory statements or statements calculated to intimidate the Native magistracy—in the Executive Government and excludes the jurisdiction of the ordinary judicial tribunals. If—argue these critics—if legislative control over the Vernacular Press is necessary, why not exercise such control through the agency of the ordinary Courts of Law? Why invest the Executive Government with an arbitrary and dangerous authority? To this objection, my Lord, an answer has been given by my hon'ble friend the mover, and an answer was given by anticipation when the Bill was considered at Calcutta. It was then explained that, assuming the preventive measures of the Act to be necessary, it was of extreme importance that they should be carried out expeditiously and quietly, and not in such manner as to give the authors of the mischief the *clat* and importance of a public prosecution—a proceeding which would simply intensify the evil it was sought to remedy. This explanation has not, however, satisfied our English critics. That it has not done so, my Lord, is perfectly intelligible. From the period of the Stuarts, Englishmen of all classes have inherited a rooted distrust of the Executive Government in matters affecting the liberty of the subject. That distrust, I am proud to say, I have inherited myself in common with the warmest lovers of freedom and the coldest admirers of bureaucracies; nevertheless, I cannot but feel that such distrust is wholly inapplicable to the situation in India generally, and to this measure in particular. My Lord, when the Legislature of India agreed to vest the above-mentioned preventive powers in the Executive Government to the exclusion of the jurisdiction of the ordinary Courts of Law, it felt that it was not making over these powers to an irresponsible despot, but to officers acting under the most severe and strict control. Under the provisions of our enactment, no executive officer of first instance, whether Commissioner of Police, Collector or Deputy Commissioner, can put an iota of the Act in force except with the previous sanction of the Local Government. My Lord, we are so fortunate as to have before us in this Council—in the person of my hon'ble friend Mr. Egerton—an embodiment of one of the Local Governments referred to. Does he, I ask, present the appearance of an oppressor of Native journalists—of an imperillor of the liberties of the British subject? Does he not rather present the appearance of a perfect English gentleman, penetrated with love of his country, love of British institutions, and of the people committed to his charge? But my hon'ble friend is not merely the embodiment of one Local Government; he is a typical representative of the whole class. Then, my Lord, all the Local Governments act under the immediate control and orders of your Lordship in Council; and here I would mention, with reference to certain remarks in Parliament to which the hon'ble the mover has called attention, that amongst the members of your Lordship's Council is one who—so far from having 'no practical-experience of the working of free institutions'—has, if I mis-

take not, held the high office of Premier in a colony the institutions of which are certainly not less free than those of England—the colony of Victoria. Then your Lordship in Council is subject to the control of the Secretary of State in Council, and the Secretary of State in Council is under the control of Parliament. If these guarantecs are not sufficient to secure the Native journalist from harsh or unfair treatment under the Vernacular Press Act, I do not know what guarantecs could be sufficient.

“But the principal object of attack by critics—both in India and England—is, after all, not the Act itself, but the manner in which the Act was passed. That a measure involving interference with the liberty of the Press should have been introduced into the Council without notice and carried through all its stages in a single sitting, and this in a time of peace, has been freely denounced as a proceeding uncalled for and reprehensible. India, it is urged, at the time the Act was passed, was in a state of profound tranquillity, and as for the attacks of the Vernacular Press, they were as impotent as they were contemptible; why then adopt in legislating for the control of that Press a procedure only justifiable when the Empire is in danger, or in times of pressing emergency? Why, to use an oriental simile, summon so gigantic an elephant to demolish so insignificant a mosquito? My Lord, it is doubtless right that the power possessed by the Legislative Council of India of passing an enactment at a single sitting should be very sparingly resorted to, and that, when resorted to, the proceeding should be jealously, should be severely, scrutinized; and, in the present case, as Sir Alexander Arbuthnot has truly observed, there is much to be said both for and against the course which was pursued. Its justification is to be found, not I venture to think, in theoretical discussion, but in a full knowledge and appreciation of the circumstances under which it was adopted; those circumstances are fully known only to your Lordship and the Ordinary Members of the Supreme Council; but I will tell the Council candidly why I, as an Additional Member, not in the secrets of the Government, did not oppose the suspension of the standing orders, but agreed to the immediate passing of the Act. It was because I felt that, though India was indeed tranquil, the times were critical; that, though the attacks of the Native Press were truly as impotent as they were contemptible, they might, under altered circumstances—and circumstances might any moment alter—become fraught with serious mischief and even danger; that, in the event of war, the disaffected residuum, and such a residuum exists in the best regulated communities, would, unless restrained by fear of a procedure more swift and certain than a dragging prosecution under the Indian Penal Code, at once make use of the Vernacular Press for disseminating distrust and suspicion of the British Government and misleading and exciting our ignorant and impressionable populations. Under these circum-

stances it seemed to me that any delay in passing the measure, or any protracted discussion of its provisions before enactment, was to be deprecated. In a word—and to put the matter in familiar form—it appeared to me that in the procedure adopted by them the Government of India had been guided by the very sensible consideration that ‘a stitch in time saves nine.’

“Such, my Lord, are the arguments which, I venture to think, may be fairly urged in favour of the proceedings of this Council. Let me now, again following the example of the last speaker, invite the Council to look at the matter from another point of view. Let us endeavour to test the propriety of the enactment by its results. In the first place, have any of the evil things predicted of the measure actually come to pass? Has it had the effect of in any way repressing the *bond fide* criticism of public measures or the conduct of public officers? Has it in any way checked the free representation of grievances? Has it made the Vernacular Press the servile instrument of authority? If such were the result of our legislation, then I, my Lord, should be among the first to explain with emphasis ‘Perest Press Act!’ But, after very careful enquiry and regular perusal of the Press Selections, I find, in common with the hon’ble the Mover, that nothing of the sort has occurred. There is not the slightest indication in the Native newspapers of any abstinence from *bond fide* criticism. There is no sign of any reticence in the representation of grievances. And we certainly cannot say of the Indian journalists of to-day what was said of the Fescennine writers of antiquity—

“————— vertere modum formidine legis
Ad bene dicendum delectandumque redacti.”

But, it may be asked, granting that no evil has flowed from the enactment—has any positive good resulted from it? Undoubtedly, immense benefit has resulted. *The intolerable license of the past has disappeared, and there is a most marked improvement in the general tone of the Vernacular Press of India.* But not only has there been a marked improvement in the general tone of the Press; in common with the Press Commissioner I have noticed also a marked improvement in the style and matter of the articles published—I must except, indeed, from this general commendation the lucubrations of the brilliant Delhi periodical; but, speaking generally, there is a noticeable improvement not only of tone but of style and matter,—so much so that I have little doubt that, at no distant period, the Native Press of India, instead of being, as it has been too often in the past, a disseminator of mischief and more or less a reproach to civilization, will become, as indeed many Vernacular newspapers are already, a valuable instrument of education, a valuable exponent of the views and wishes of the people and a most useful aid to the

Government of Her Majesty in the great and anxious work of administering this vast Empire.

“ Upon the whole, then, my Lord, I venture to hope that I am justified in reiterating the opinion which I expressed at starting, that, whether regard be had to the reasons which led to the enactment of the Press law, or the results which have flowed from it, there is no reason for regretting that the Act was passed. I think I am further justified, under the circumstances, in expressing my entire concurrence in the views of the hon'ble the Mover as to the probable opinion of Lord Macaulay (had he survived to the present time) upon the measures taken: indeed, I am disposed to go even further than my hon'ble friend; I am inclined to assert with some degree of confidence that, had the distinguished mover of the adverse resolution in the House of Commons the misfortune to occupy my humble position on the present occasion, he would in all probability, have taken up at least two hours of your Lordship's time by an eloquent oration *in defence* of the action of the Government of India in having passed at a single sitting the Vernacular Press Act of 1878!

“ But, my Lord, while I believe the action of the Government of India in the matter of the Press Act to be defensible and the main lines of the enactment to be sound and suitable, I am quite prepared to admit that some of the provisions are open to amendment. In particular, I think the censorship clauses may be appropriately withdrawn. I never liked those clauses, and my dislike to them is based on practical experience. In the province in which I have had the honour of being employed, a censorship of the Native Press was in force (under a local ordinance) for a period of eight years—from the year 1857 to the year 1865. It was first imposed by that illustrious statesman Lord Lawrence, when Chief Commissioner of the Panjáb, and was kept up with vigour during the régime of his distinguished successor Sir Robert Montgomery. But, with the deepest respect for the great names associated with the censorship of the Press in the Panjáb, I am constrained to confess that the result was (in my humble opinion) far from satisfactory. The result may be described briefly by saying that the Vernacular Press of that period contained *a minimum of news and a maximum of adulation*. My recollection of those days has led me to form an opinion very strongly adverse to the institution of a censorship; indeed, had I to choose between a Vernacular Press absolutely free and a Press carried on under the depressing supervision of a censor, I should be disposed decidedly to prefer the former.

“ In these circumstances, my Lord, I need hardly say that I shall give my vote most cordially in favour of the present Bill.”

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER ARBUTHNOT moved that the Bill be passed.

His Excellency THE PRESIDENT said:—"If I do not give a silent vote on this occasion, it is only because I am anxious that my silence shall not be misinterpreted. For no other reason should I have deemed it necessary to add a single word to the cogent observations with which my hon'ble colleague Sir Alexander Arbuthnot introduced, and the lively illustrations with which my hon'ble friend Mr. Thornton followed him, on the previous motion. Although the thoughtful speech of my hon'ble colleague naturally and properly turned chiefly upon the Vernacular Press Act, yet the Council is aware that neither the Vernacular Press Act, nor the principle, nor the expediency, of that Act, are here under discussion. My hon'ble colleague has reminded us that the Vernacular Press Act has now, for some time, been in force, with the approval of the Secretary of State and the ratification of the British Parliament, and, as the Hon'ble Mr. Thornton has also reminded us, no action can be taken under that Bill in any part of India without the carefully considered sanction of the Supreme Government. Up to the present moment no action has been necessary under the Act, and I trust that no such action will be necessary. But I do not hesitate to say that the existence of the law has been eminently beneficial in its effects, and productive of a marked improvement in the general tone and character of Vernacular journalism. Many evidences of this might, doubtless, be added to those which have been cited by my hon'ble colleague; but I think the Council will have been satisfied by the statement we have just heard from him that the effects of the Vernacular Press Law are vigilantly watched and considered by the Department over which he presides; and that this law, whilst effectually restraining seditious and profligate publications, has in no wise hindered the freest and fullest expression of antagonistic opinion on the policy and conduct of the Executive or the Legislature in the fair field of public criticism.

"The Council is aware that the object of the present Press Law is preventive, not punitive; and speaking for myself, I can truly affirm that my own object, both in connection with that law, and generally as regards all the relations between the Government and the Press, has been, not to check, but to promote, the growth, not to injure, but to improve, the position, of the Vernacular Press. I say more. The Vernacular Press has received from the Government which passed the existing Press Law, not merely toleration, but sympathy, not merely good wishes, but good offices. I have always felt that our duty toward that portion of the Press was of a two-fold character. We were bound, indeed, to protect the community from the abuse of freedom on the part of certain Vernacular journals; but we were also bound in the interests of the community, as well as of the Press itself, simultaneously to do all in our

power to encourage and assist the Vernacular Press in the unrestricted cultivation of that freedom which the present law denies to no honest journalist.

“Now I think there is no use in ignoring the plain fact that the existence of a free Press in a country whose Government is not based on free institutions, or carried on upon representative principles, is a great political anomaly, and that the relations between such a Government and such a Press must, necessarily, be somewhat peculiar. A Press exists for the circulation of facts, as well as of opinions about them. If the facts are untrue, the opinions must be unsound. Adequate political information is as necessary for the sustenance of a healthy Press as adequate food for that of a healthy human being. But in this country the only source of authentic political information is the Government itself, whose political acts are the legitimate subject of that public criticism which it is the function of the Press to supply. If you put aside the Government; beyond and apart and independently of the Government, where is such information to be found? In the rumours of the streets, in the gossip of the bazárs and the mess-rooms, in the interior consciousness of amateur political prophets, or the occasional indiscretion of some official clerk; and therefore, I think that, in presence of a Press which is, so to speak, constrained to forage for its sustenance on such a barren moor, it is the duty of the Government, so far as it is possible to do so, to keep the Press fully and impartially furnished with accurate current information in reference to such measures, or intentions, on the part of the Government, as are susceptible of immediate publication, without injury to the interests for which the Government is responsible. In the arrangements organized for this purpose no distinction has been admitted between one journal and another as regards the European Press; nor any attempt made to bias the opinions of the Press on the information thus impartially provided to it. Now, I am happy to say, similar arrangements have already been commenced for placing respectable Vernacular journals in this respect on precisely the same footing as that of their previously more privileged European contemporaries; and I hardly think that the better portion of the Vernacular Press will be disposed to dispute my assertion that its position, so far as that position depends upon the Government, is, at the present moment, more satisfactory, and more assured; more respectfully recognized by the Executive, and, therefore, more influential with the community, than at any previous period.

“The object of the present Bill is to remove from the Vernacular Press Act a clause which was inserted into that Act, not without certain hesitation at the time, purely as a mitigating, not as an intensifying, clause. The Secretary of State, whilst sanctioning the whole Bill, inclusive of this clause, expressed an opinion that the option thus given to impecunious Editors to place their jour-

nals under temporary supervision as an alternative to penalties which might otherwise, in such cases, put an end altogether to the precarious existence of the offending journal, was a provision liable to misuse, and which might, in practice, introduce a principle nowhere else recognised in the Act, and, indeed, generally inconsistent with the spirit of it. The Secretary of State, therefore, requested the Government of India not to act upon this clause, leaving it to our judgment to decide whether the clause should be left in abeyance, or altogether withdrawn from the Act. The Government of India, fully appreciating the apprehensions of the Secretary of State on this point, and believing that practical difficulties might arise if the benefit of the clause were at any time claimed under the Act from which it remained unwithdrawn, has introduced the present Bill for the purpose of rendering impossible any such contingency. This amending Act, however, leaves of course wholly unaltered the character and principle of the original Act; and therefore I trust the Council will feel no hesitation in adopting the motion which I have now to put."

The Motion was put and agreed to.

CENTRAL PROVINCES EVIDENCE BILL.

The Hon'ble MR. STOKES introduced the Bill to make better provision for recording evidence in the Central Provinces, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Cockerell and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill be published in the *Central Provinces Gazette* in English and in such other languages as the Local Government should think fit.

The Motion was put and agreed to.

DESTRUCTION OF RECORDS BILL.

The Hon'ble MR. STOKES also introduced the Bill to authorize the destruction of useless records in Courts in British India, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Cockerell and the Mover. He had nothing to add to the remarks which he made when he obtained leave to introduce the Bill, except that, in addition to the power given to the High Courts and the Recorder of Rangoon to make rules for destruction of records in their own offices and in the Courts subordinate to them, the Bill would also give the High Courts at Calcutta, Madras, and Bombay power to make rules in the case of the Courts for the relief of insolvent debtors established in those towns. As at present constituted, the Insolvent Courts in the Presi-

clency towns, though presided over by Judges of the local High Court, were neither divisions of the High Courts nor Courts subordinate to them; but the presiding Judges sat as Commissioners under 11 & 12 Vic., cap. 35.

The Hon'ble Mr. THORNTON observed that all would admit the necessity for securing the systematic destruction of useless public records, and he believed elaborate rules on the subject were in force in most of the provinces of India; but, with reference to the present Bill, he would venture to ask the hon'ble the Mover one question. If legislative sanction was really necessary to authorize the destruction of public records, on the ground that, amongst those records, there were documents which were private property, why should the scope and operation of the present Bill be confined to judicial records only? Why should not its operation be extended so as to embrace the records of other departments of the Government? The records of the Revenue, Settlement, Police and other departments were very voluminous,—stood in fact as much in need of systematic clearance as judicial records, and like those records sometimes included documents which were, technically speaking, private property.

The Hon'ble Mr. STOKES said that he had not known that the Revenue records ever comprised documents which were private property. But if this really were the case, his hon'ble friend had pointed out a flaw in our legislation, which, so far as he was aware, was found in every Province in India except Oudh, where Act XVIII of 1876, section 39, made express provision for destroying all unnecessary records, whether civil, criminal or revenue. The Bill, as it stood, was a mere embodiment of the decision of the Home Department, and without express instructions, he would not feel justified in going further than the Bill now went.

His Excellency THE PRESIDENT suggested that the point should be settled in Select Committee.

The Hon'ble Mr. STOKES having expressed his concurrence in this suggestion,

The Motion was put and agreed to.

The Hon'ble Mr. STOKES then moved that the Bill be published in the local official Gazettes in English and in such other languages as the Local Governments should think fit.

The Motion was put and agreed to.

PLEADERS ACT AMENDMENT BILL.

The Hon'ble Mr. STOKES also moved for leave to introduce a Bill to amend the Pleadings, Mukhtars and Revenue Agents Act, 1865. He said that that Act

provided that it should take effect in the Lower Provinces and North-Western Provinces of Bengal on the 1st January, 1866, and that it might "be extended by any other Local Government to its own territories by notification" at any time. But there was no provision empowering a Local Government to extend *a portion* of the Act to its territories. The Government of Madras now desired to extend the Act to the Pleaders and Mukhtárs in that Presidency, but it did not want to have any legislative provisions as to Agents in proceedings before the local Revenue authorities; and as it appeared expedient to the Government of India that Local Governments should have power to extend to all or any portion of their territories such portion of the Act as they might think fit, the present Bill had been prepared to confer that power.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 30th October, 1878.

SIMLA ;
 The 16th October, 1878. }

D. FITZPATRICK,
 Secretary to the Government of India,
 Legislative Department.