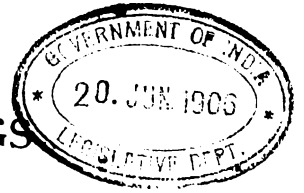


*Friday,
15th December, 1905*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAW AND REGULATION
LAW AND REGULATIONS

Vol. XLIV

Jan.-Dec., 1905



ABSTRACT OF PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

FROM 1905 TO MARCH 1906.

VOLUME XLIV



Published by Authority of the Governor General.

Gazette & Debates Section
Parliament Library Building
Room No. FB-025
Block 'G'



CALCUTTA :

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1906.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 15th December, 1905.

PRESENT :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
His Honour Sir A. H. L. Fraser, K.C.S.I., Lieutenant-Governor of Bengal.
His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.
The Hon'ble Sir A. T. Arundel, K.C.S.I.
The Hon'ble Sir Denzil Ibbetson, K.C.S.I.
The Hon'ble Mr. H. Erle Richards, K.C.
The Hon'ble Mr. E. N. Baker, C.S.I.
The Hon'ble Major-General C. H. Scott, C.B., R.A.
The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.
The Hon'ble Rai Sri Ram Bahadur.
The Hon'ble Mr. L. A. S. Porter.
The Hon'ble Mr. L. Hare, C.I.E.
The Hon'ble Mr. H. A. Sim, C.I.E.
The Hon'ble Nawab Fateh Ali Khan, Kazilbash, C.I.E.
The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
The Hon'ble Mr. A. A. Apcar.
The Hon'ble Mr. S. Ismay, C.S.I.
The Hon'ble Mr. W. T. Hall, C.S.I., B.A., LL.B.
The Hon'ble Mr. A. C. Logan.
The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca.
The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

NEW MEMBERS.

The Hon'ble MR. GOKHALE, the Hon'ble MR. APCAR, the Hon'ble MR. ISMAY, the Hon'ble MR. HALL, the Hon'ble MR. LOGAN, the Hon'ble NAWAB BAHADUR KHWAJA SALIMULLA of DACCA and the Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR took their seats as Additional Members of Council.

[The President; Rai Sri Ram Bahadur; Major-General Scott.] [15th DECEMBER, 1905.]

His Excellency THE PRESIDENT said :—“Your Honour and gentlemen, as this is the first occasion on which I have the honour of taking my seat at this Council Board, I cannot let the opportunity pass without expressing to you the satisfaction it is to me to meet here today the members of the Supreme Legislative Council. I hope that during my period of office we may together be successful in furthering much legislation that may tend to the welfare and happiness of the people of this country. I feel sure that I shall be able at all times to rely fully upon the benefit of your valuable assistance and advice.”

QUESTIONS AND ANSWERS.

The Hon'ble RAI SRI RAM BAHADUR asked :—

“I.—In view of the great diversity of opinion which prevails all over the country on the subject of the new Army scheme and the consideration of the newspaper criticisms thereon, is it the intention of the Government to advise the Secretary of State for India to suspend the enforcement of the scheme, and also to suggest the appointment of an independent Commission (on the lines of the Esher Committee in England) to enquire into the question?”

“II.—Has the attention of the Government been drawn to Lord Curzon's last speech at the Byculla Club, in which His Lordship is reported to have said that in the Army scheme question he had the support of the greater part of the Indian Army? Will the Government be pleased to state if the senior officers of the army, such as Lieutenant-Generals and Major-Generals, were consulted on the subject, and, if so, will the Government be pleased to publish the opinions of such officers?”

The Hon'ble MAJOR-GENERAL SCOTT replied :—

“The reply to the Hon'ble Member's first question and the first part of his second question is in the negative. The reply to the second part of the latter question is also in the negative, as it is not usual for Government to consult the officers mentioned on questions of policy such as the one under consideration.”

The Hon'ble RAI SRI RAM BAHADUR asked :—

“III.—Has the attention of the Government been called to the following allegations, contained in the issues of the *Bengalee* newspaper specified below, relating to the state of affairs in Barisal, one of the districts of the new province of Eastern Bengal and Assam, and are the said allegations true?”

[15TH DECEMBER, 1905.] [*Rai Sri Ram Bahadur.*]

(1) That the District Magistrate—

(a) warned some Indian gentlemen of Barisal that, if the bazar was closed through panic caused by the Gurkhas, whatever expenses the Government would be put to in feeding the soldiers, would be recovered from the shop-keepers;

(*The Bengalee*, November 21st, 1905, p. 3.)

(b) told some of the leading Indian gentlemen of the town of Barisal not to hold any meetings for fifteen days;

(*The Bengalee*, November 21st, 1905, p. 3.)

(c) asked Dr. Nisikanta Bose and five other Indian gentlemen to leave the town of Barisal for a fortnight.

(*The Bengalee*, November 21st, 1905.)

(2) That the police ordered the removal of *Bande Mataram* mottoes and placards from the walls and doors of houses, and threatened to bring the Gurkhas if the orders were not complied with.

(*The Bengalee*, November 18th, 1905, p. 4.)

(3) (a) That some Gurkha soldiers have been going round the town, and have been asking people not to utter *Bande Mataram*;

(*The Bengalee*, November 25th, 1905, p. 6.)

(b) that some Gurkha soldiers have been entering houses and shops and removing *Bande Mataram* and Swadeshi placards therefrom;

(*The Bengalee*, November 25th, 1905, p. 3.)

(c) that on the evening of the 23rd November, 1905, the Gurkha soldiers made a sortie into the streets of Barisal and committed assaults upon Babu Shyama Charan Dutt, pleader, and Dr. Nisikanta Bose.

(*The Bengalee*, November 25th, 1905, p. 4.)

, IV.—Is it a fact that a telegram addressed to the *Bengalee* newspaper, Calcutta, from Barisal, by its correspondent, on the 18th November, 1905, was stopped and not delivered to the editor to whom it was addressed? If so, why?

" V.—Is it the case, as noticed by the *Pioneer* dated the 3rd December, 1905, and other newspapers, that Mr. L. P. Pugh, late officiating Advocate General

[*Rai Sri Ram Bahadur* ; *Sir Arundel Arundel* ; [15TH DECEMBER, 1905.]
Sir Denzil Ibbetson.]

of Bengal, has given his opinion that the proclamation dated the 9th November, 1905, and the two circulars dated the 8th November, 1905, issued by the Government of Eastern Bengal and Assam, forbidding public meetings in public places, the shouting of *Bande Mataram* and holding processions in public streets, are 'unconstitutional and in that sense illegal'? If so, will the Government be pleased to direct the withdrawal of the aforesaid proclamation and circulars?"

The Hon'ble SIR ARUNDEL ARUNDEL replied :—

"The Government of India have no information regarding the newspaper allegations referred to in Question III or as to the legal question referred to in Question V. The matters to which these questions relate are within the competence of the Government of Eastern Bengal and Assam. The Government of India approve of such action being taken by the Government of Eastern Bengal and Assam as may be necessary to suppress the lawlessness and intimidation which appear to have characterised the so-called Swadeshi movement in that province. On educational as well as on public grounds the Governor General in Council cannot condemn too strongly the employment of school boys and undergraduates in any form of political agitation.

"2. With respect to Question IV, the telegram in question was stopped because, in the opinion of the Director General of Telegraphs, it was objectionable."

SINDH INCUMBERED ESTATES (AMENDMENT) BILL.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill to amend the Sindh Incumbered Estates Act, 1896, be referred to a Select Committee consisting of the Hon'ble Mr. Richards, the Hon'ble Rai Sri Ram Bahadur, the Hon'ble Mr. Gokhale, the Hon'ble Mr. Logan, the Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, and the mover. He said :—"My Lord, the Council will perhaps recollect that last year I introduced this small Bill. For some time after publication no criticisms were received, and it was my intention to propose that the Bill should be passed without reference to a Select Committee. Very late in the year, however, a memorial from the Sind Hindu Sabha was received objecting to the Bill. It was too late then to obtain the opinion of the Local Government, and the Bill had to stand over. We have since received another memorial from the Sind Muhammadan Zamindars' Association in favour

[15TH DECEMBER, 1905.] [*Sir Denzil Ibbetson ; Mr. Richards.*]

of the Bill, and it seems proper that these two papers should be considered by a Select Committee."

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS BILL.

The Hon'ble MR. RICHARDS moved for leave to introduce a Bill further to amend the Presidency Small Cause Courts Act, 1882. He said :—" The object of this Bill is to remove certain defects in the existing law governing Presidency Small Cause Courts to which the attention of the Government has been called by the High Courts.

" Of these the first is that, according to a decision of the Calcutta High Court, a Presidency Small Cause Court cannot, as between an attaching creditor and the mortgagee of the judgment-debtor, deal in execution proceedings with questions of title to, or determine any right to or interest in, property which is attached to immoveable property, but which under section 28 of the Presidency Small Cause Courts Act, 1882, is for the purpose of execution of a decree to be deemed to be moveable property. It has been represented that the result of this decision is to compel many cases to be brought in the High Court which might well be disposed of by the Small Cause Court, and that the resultant expense and delay are both a hardship to litigants and depreciate the value as security of the property in question. It is therefore proposed by clause 2 of the Bill to empower Small Cause Courts to dispose of such cases.

" The second is the absence of any sufficient check on the exercise by defendants of their right to obtain an order for removal to the High Court of a suit instituted in a Small Cause Court in which the value of the subject-matter exceeds Rs. 1,000. It has been found that such orders are frequently obtained solely with a view to harassing creditors by delay, and it is seldom possible for the Judge to whom the application to transfer is made to decide on the materials before him that it has been made with this object. It is proposed in the Bill to require security to be given in all cases as is the practice under the English County Courts Act in corresponding cases.

" The third defect is the difficulty of reading section 69 of the same Act with section 617, Code of Civil Procedure. Section 69 has been redrafted so as to prescribe the entire procedure to be followed by the Small Cause Court in making a reference to the High Court."

The motion was put and agreed to.

[*Mr. Richards.*] [15TH DECEMBER, 1905.]

The Hon'ble MR. RICHARDS introduced the Bill.

The Hon'ble MR. RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English and in the Fort St. George Gazette, the Bombay Government Gazette and the Calcutta Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 12th January, 1906.

CALCUTTA;
 The 15th December, 1905. }

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.