

*Friday,
5th August, 1910*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLIX

April 1910 - March 1911

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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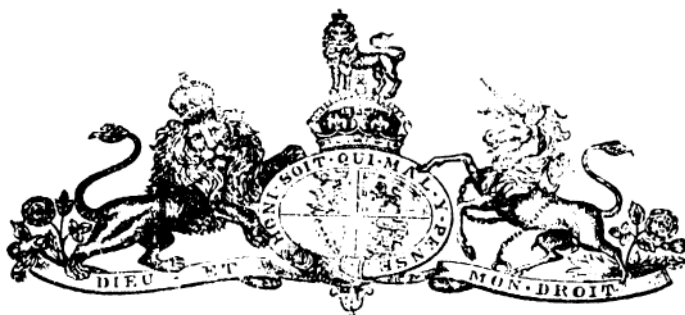


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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

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 to 1909
(24 & 25 VICT., CAP. 67, 55 & 56 VICT., CAP. 14,
AND 9 EDW. VII, CAP. 4).

The Council met at Viceregal Lodge, Simla, on Friday, the 5th August 1910.

PRESENT :

The Hon'ble MR. J. L. JENKINS, C.S.I., *Vice-President, presiding,*
and 84 Members, of whom 28 were additional Members.

The Hon'ble MR. JENKINS: "I much regret to announce that His Excellency the Viceroy is unfortunately ill and will not be able to preside at this meeting. We will, therefore, take the non-contentious business which is on the paper, complete that, and adjourn till to-morrow morning 11 o'clock, when His Excellency hopes to be able to attend.

"The Hon'ble Mr. Earle will be delegated to take the non-contentious business on the agenda paper which stands in my name."

QUESTIONS AND ANSWERS.

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

"(a) Will the Government be pleased to lay on the table a complete return of the books, newspapers and other publications ordered to be forfeited by the Imperial and the various Provincial Governments under Act I of 1910 (the Press Act) since the enactment of that measure in February last?

"(b) Will the Government be pleased to explain the disparity of treatment accorded to old presses and newspapers in the various provinces of the Empire in the matter of depositing security while changing printers or offices?

"(c) Will the Government be pleased to state whether it would be prepared, before calling for security in respect of any publication or declaring its forfeiture, to furnish the editor, publisher or author of such publications with the passages or chapters taken exception to by the Government? And will the Government be pleased to state whether on such passages or chapters being taken out from subsequent editions of such publications the notice of forfeiture will be withdrawn in respect of such editions?

"(d) If the Government is not disposed to issue notices as suggested in the preceding question, will the Government be pleased to direct that whenever

[*Babu Bhupendra Nath Basu ; Mr. Earle.*] [5TH AUGUST 1910.]

any newspaper, book or other document is declared to be forfeited to His Majesty under section 12 of the Indian Press Act, the word or words, passage or passages, considered objectionable, be stated in the order of forfeiture ?

“(e) Will the Government be pleased to issue instructions to Local Governments to the effect that it is not intended under the Indian Press Act (I of 1910) to demand security from the keepers of existing presses or publishers of existing newspapers, even if any fresh declaration is made under the Press and Registration of Books Act, unless they offend by printing or publishing matter which is objectionable under section 4 of the Indian Press Act ?”

The Hon'ble MR. EARLE replied :—

“(a) A return of newspapers, books and other documents of which the forfeiture has been ordered by Local Governments under section 12 of the Press Act is laid* on the table. No orders are issued under that section by the Imperial Government.

“(b) The Hon'ble Member has doubtless seen the resolution recently issued by the Government of Bombay, which contained the orders of the Government of India in regard to the treatment to be accorded to old presses and newspapers. It is true that before those orders were received security had been demanded from certain keepers of presses and publishers to whom the principles upon which exemption may be granted properly applied. On receipt of the orders the mistake was rectified, and the Government of India have every reason to believe that the principles enumerated by them have removed all likelihood of disparity of treatment in future.

“(c) The object of the Act being not punitive but preventive, the Government of India have already advised Local Governments to convey warnings to offending newspapers or presses rather than to issue at once an order demanding security, when it is believed that such warnings will be effective. They do not propose to prescribe to Local Governments the form in which warnings shall be conveyed, but it may be inferred that in order to render such warnings effective, the offending passages or articles are usually indicated. If the latter part of the Hon'ble Member's question refers to publications of which the forfeiture has been ordered under section 12, I would point out that orders under that section refer only to the individual edition specified in the notification, and that if subsequent editions were published containing no matter of the nature described in section 4 (1) of the Act, those editions would of course not be liable to forfeiture.

“(d) The Hon'ble Member will observe that in cases of forfeiture under section 12 (1) of the Act, the law requires the Local Government merely to state in its notification the grounds of its opinion upon which the declaration of forfeiture is based. On the other hand, in orders of forfeiture passed under sections 4, 6 and 9, the Local Government is required by law to state or describe the words, signs or visible representations which, being of the nature described in section 4 (1), render security deposited by a keeper of a printing press or by a publisher liable to forfeiture. The difference in procedure was prescribed advisedly, and the Government of India are not prepared to request Local Governments to go beyond the requirements of the law.

“(e) The Government of India have already advised Local Governments that when fresh declarations are made, security should not be demanded from the keepers of existing newspapers which are well conducted. As has already been observed, the object of the Act is to prevent not to punish offences, and past good conduct and the likelihood of future good conduct may legitimately be required as conditions of exemption. The Government of India are not, therefore, prepared to rule that in such cases security should only be demanded when the offence of publishing matter of the nature described in section 4 (1) has actually been committed.”

* *Vide* Appendix A.

[5TH AUGUST 1910.] [Babu Bhupendra Nath Basu ; Mr. Earle.]

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“(a) Will the Government be pleased to make a statement as regards the present political condition in the province of Eastern Bengal and Assam ?

“(b) Will the Government be pleased to state why, in spite of assurances given by their promoters regarding the selection of subjects and speakers, the conferences that were proposed to be held in Faridpur, Barisal and Mymensingh in April last were proclaimed under orders of the Government of Eastern Bengal and Assam ? Is the Government aware that as a matter of fact guarantees were offered in the districts of Faridpur and Mymensingh ?

“(c) Is the Government aware of the great dissatisfaction caused throughout the country by the suppression of these conferences ?”

The Hon'ble MR. EARLE replied :—

“(a) Government do not consider that it is necessary or desirable to make any statement as regards the present political condition in the province of Eastern Bengal and Assam.

“(b) The Lieutenant-Governor of Eastern Bengal and Assam explained clearly at a meeting of his Council held on the 6th April 1910, that it was owing to the fact that satisfactory assurances were not given by the promoters of the proposed conferences that the districts of Faridpur, Barisal and Mymensingh were proclaimed. The action taken by the Government of Eastern Bengal and Assam had the unqualified approval of the Government of India, as it appeared that the conferences were not intended for the discussion of legitimate local topics, but were part of a concerted scheme to instil fresh feelings of disaffection and lawlessness and to revive agitation. As regards the last part of the question, the reply is that the guarantees were by no means considered satisfactory.

“(c) The Government are not aware that great dissatisfaction has been caused throughout the country by the suppression of these conferences, though, no doubt, the action taken was the cause of disappointment to the promoters and their friends.”

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“Will the Government be pleased to lay on the table a return showing the instances in which the Prevention of Seditious Meetings Act, 1907, has been put into operation since November, 1907 ?”

The Hon'ble MR. EARLE replied :—

“A return* showing the instances in which the different provisions of the Prevention of Seditious Meetings Act has been put into operation is laid on the table.”

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“Will the Government be pleased to inquire if in trials under Act XIV of 1908 (*an Act passed to provide for the more speedy trial of certain offences*) an inordinate delay does not often take place in the preliminary inquiry by the Magistrate, and will the Government be pleased to issue directions to expedite the inquiry stage of such cases ?”

The Hon'ble MR. EARLE replied :—

“The Government have no reason to believe that any inordinate delay occurs in the preliminary inquiry by the Magistrate in cases to which the procedure of Act XIV of 1908 has been applied. They find that in all such cases which have been committed to the Special Bench of a High Court up to date, with two exceptions, the average duration of the proceedings from the

* Vide Appendix B.

[*Mr. Earle; Babu Bhupendra Nath Basu; the Vice-President; Sir T. R. Wynne.*] [5TH AUGUST 1910.]

date of the order under section 2 (1) of the Act to the date of commitment has been slightly less than 1½ months. The two exceptions referred to are the Nasik and the Howrah-Sibpur conspiracy cases which occupied a period of about 4 and 5 months respectively prior to commitment, owing to the very large number of witnesses whom it was necessary to examine.

"The Government have no reason to think that every endeavour is not made to expedite the inquiry stage of these cases or that it is necessary to issue special directions in the matter."

The Hon'ble BABU BHUPENDRA NATH BASU: "May I be permitted to put a supplementary question to the one that has just now been answered? In regard to the Howrah case, may I enquire if certain persons charged with the offences were not discharged by the Magistrate after inquiry lasting for four and half months, during which period these unfortunate persons were not released on bail?"

The Hon'ble MR. EARLE: "Mr. President, I scarcely think that that question arises out of the previous question which has been put by the Hon'ble Member. But, if he wishes that question to be answered, I must ask for notice."

THE VICE-PRESIDENT: "I think that there should be notice about that question."

The Hon'ble BABU BHUPENDRA NATH BASU: "As you think, Sir."

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

"Is the Government aware that robberies and outrages are taking place in running trains, particularly in the zenana compartments? Will the Government be pleased to adopt measures calculated to ensure a feeling of safety amongst all, specially the female passengers, and to prevent a recurrence of such offences?"

The Hon'ble SIR T. R. WYNNE replied:—

"The question of preventing robberies and outrages in running trains is one that has for some time past been the subject of the Railway Board's most careful attention.

"Two years ago the whole subject was carefully gone into at a conference at which all Indian Railways were represented, and as the result of careful consideration and in light of the many suggestions that had been made by the Press and in letters to the Railway Board, certain precautionary measures were adopted.

"The measures that were taken to prevent outrages and robberies are fully detailed on page 19 of the Railway Board's Administration Report for the year 1909.

"The difficulty is to devise measures which will entirely prevent all thefts and outrages occurring in running trains, and this is a problem which no country in the world has yet solved, robberies and outrages occurring on railways of every country from time to time. In England, in last March, a colliery clerk named Nisbet was robbed and murdered in a train near Morpeth station on the North-Eastern Railway, and if foreign newspapers are read instances of train outrages will be found frequently recorded. As indicating the difficulty of solving the problem and the different views held as to the measures to be taken I will now quote a letter written by an Indian official gentleman to the East Indian Railway.

"In this letter he argues strongly against carriages being fitted with the means of stopping trains when running, and the removal of continuous foot-boards, both being measures the general public most strongly urged as being of the highest protective power and which have both been introduced.

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"His remedy for the protection of females is that next to the female compartment on every train there should be another compartment in which the guardians of the female passengers should be able to travel, there being communication between this compartment and the one for the use of females. This arrangement might suit when females were accompanied by their male relatives, but when travelling alone the means of communication between the two compartments would simply be in the direction of assisting a criminal to gain access to the female compartment.

"The difficulty of the problem to be solved and the conflicting proposals made to deal with it have been indicated to show that while the Railway Board are fully alive and are most anxious to do everything to prevent outrages, it is a question that does not easily lend itself to solution and the experience of other countries which also have not been able to solve the problem is of no assistance.

"The effect of the measures that have been introduced has certainly been to reduce the number of such cases, and the public may feel assured that the Railway Board will continue to press for further additional precautions that may hold out hopes of tending to still further reduce the possibility of such occurrences."

The Hon'ble BABU BHUPENDRA NATH BASU: "Is the Government aware that a proposal was submitted to the Railway Board by one Mr. H. M. Pringle, mechanical engineer of Debra Dun, in the year 1907, submitting a design of automatic door locks which would automatically close the doors when the train was in motion and open as soon as the train stops, and also a design of a collapsible window-guard. Will the Government be pleased to state what action, if any, has been taken in this matter?"

The Hon'ble SIR T. R. WYNNE: "A proposal was submitted by Mr. Pringle, but it was a very sketchy one and not worked out. It was coupled with the suggestion that he should be given an appointment on State Railways to work out his ideas. At the same time I wish to point out that even if a system of automatically locking the doors when the train was in motion had been at work on the train in which the Tinpahar outrage was committed, it would not have prevented its occurrence.

"In the *Anrita Bazar Patrika* newspaper of the 1st August appeared an account of what occurred, from which I will read the following extract:—

'In connection with the atrocious robbery at Tinpahar station on the East Indian Railway in which a Bengali lady was attacked by Charu Chunder Roy, the lady has made a statement to the Magistrate at the Jamalpur Railway Hospital. She states that at Tiljhari station she noticed the accused standing on the footboard on the platform side and peeping into the compartment. She hastily raised the shutters on the platform side, but the accused (who must have crossed the buffers) appeared on the off-side footboard, and before she could raise an alarm he got into the carriage and threatened her with death if she screamed.'

"From this account it is clear that the man entered the carriage when the train was at a standstill and when the doors would not have been locked if the train had been fitted with an automatic arrangement for locking doors which came into operation only when the train was in motion.

"How a criminal, apparently a *bona fide* passenger, is to be prevented from taking a ticket, coming on to a station platform and entering a railway carriage is a problem which the Railway Board would very much like to see solved if it was possible to do so."

The Hon'ble BABU BHUPENDRA NATH BASU: "Will the Government be pleased to consider the desirability of placing a guard on either side of the female compartment?"

The Hon'ble SIR T. R. WYNNE: "Is the guard to be a man or a woman?"

The Hon'ble BABU BHUPENDRA NATH BASU: "Women guards would be quite enough."

[*Babu Bhupendra Nath Basu; Mr. Earle; Mr. Gokhale.*] [5TH AUGUST 1910.]

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“(a) In reply to a question put by the Hon'ble Raja Pramada Nath Ray of Dighapatia in Council on the 18th March 1910, regarding the action which the Government proposed to take in the matter of ‘an effectual advance in the direction of local self-government,’ as indicated in the despatch of Lord Morley dated the 27th November 1908, and also in the Report of the Royal Commission on Indian Decentralization, published on the 27th February 1909, the Government was pleased to state that the matter had been referred, or was about to be referred, to the Local Governments for their opinion.

“(b) Will the Government be pleased to say what progress has been made in the consideration of the question referred to above?”

The Hon'ble MR. EARLE replied :—

“The opinions of Local Governments and Administrations have been invited upon all the proposals of the Decentralization Commission which relate to matters of local self-government, namely, those contained in Part III of the Report. The Government of India are not yet in possession in a complete form of the views of Local Governments on all the matters which were referred to them, and it is impossible for them to arrive at definite conclusions on any of these questions until they are fully informed of the views of the Local Governments. Owing to the important and complicated nature of the considerations raised by the Royal Commission's proposals, both the Local Governments and the Government of India will necessarily require ample time to formulate their conclusions.”

The Hon'ble MR. GOKHALE asked :—

“Will the Government be pleased to lay on the table a return, showing the cases in which action has been taken by the various Provincial Governments and Administrations under the Press Act of February last?”

The Hon'ble MR. EARLE replied :—

“A return* showing the cases in which action has been taken by Local Governments and Administrations under section 12 of the Press Act is laid on the table. Action taken under sections 4, 6, 9, 11 and 12 alone are, under the orders of the Government of India, reported to them, and as they have received no reports under sections 4, 6, 9 and 11 they presume that no orders have been issued thereunder. Full information as to the action taken under the other provisions of the Act can only be obtained from Local Governments, and as the working of the Act in general will be noticed in the annual report on newspapers, the Government of India do not consider it necessary to call for special returns.”

The Hon'ble MR. GOKHALE asked :—

“Will the Government be pleased to state on what grounds Mr. Mackarness's pamphlet on ‘the methods of the Indian Police in the 20th century’ has been proscribed in India? Is it not a fact that the pamphlet strings together for the most part extracts from the findings of Judges, the reports of Commissions appointed by Government, and similar authorities? Will Government state whether the matter that has been held to be dangerous is contained in these extracts or in any original observations of Mr. Mackarness?”

The Hon'ble MR. EARLE replied :—

“The pamphlet by Mr. F. C. Mackarness on ‘the methods of the Indian Police in the 20th century’ was proscribed on the ground that it contains words which have a tendency to bring the Government established by law in British

5TH AUGUST 1910.] [Mr. Earle; Mr. Gokhale; Mr. Robertson.]

India into hatred and contempt. The pamphlet consists for the most part of extracts from judicial and departmental pronouncements on selected cases of police oppression or abuses, interspersed with comments by the compiler of the pamphlet, conveying the imputation that such scandals were common to the whole police-force and were connived at by the Government of India and its responsible officers. The objectionable matter is contained both in these comments and in the manner in which the extracts were presented to the public."

The Hon'ble MR. GOKHALE asked :—

"Have the Government noticed the case of a new paper in Urdu called the *Punjab Advocate*, started at Mianwali, in which it is reported that the Deputy Commissioner declined to accept security in Government Promissory Notes? Will the Government state if it is in the discretion of any Magistrate to accept or not accept Government Promissory Notes when tendered as security?"

The Hon'ble MR. EARLE replied :—

"The incident referred to in connection with the *Punjab Advocate* has not been brought to the notice of the Government. The answer to the latter part of the question will be found in sections 3 and 8 of the Press Act, which provide that security may be tendered either 'in money or the equivalent thereof in securities of the Government of India'."

The Hon'ble MR. GOKHALE: "Will the Hon'ble Member state with whom the discretion rests in the matter—with the person who tenders the security or with the Magistrate who accepts the security?"

The Hon'ble MR. EARLE: "I understand that the discretion rests with the person who tenders."

The Hon'ble MR. GOKHALE asked :—

"(a) Is the Government aware that a number of British Indians, subjects of His Majesty, many of them Colonial born, have been forcibly deported to India by the Transvaal authorities with the assistance of the Government of a foreign country?"

"(b) Will the Government be pleased to state what action, if any, has been taken in the matter."

The Hon'ble MR. ROBERTSON replied :—

"The Government of India are aware that a number of British Indians, subjects of His Majesty, certain of whom claim to have been born in South Africa, have lately been deported to India. These persons have been removed from the Transvaal under the provisions of section 7 of the Asiatics Registration Amendment Act of 1908, for refusing to produce certificates of registration, and on their arrival in Portuguese territory they have been compelled to leave for India under a local bye-law of the Portuguese Administration.

"The Government of India have made representations to His Majesty's Secretary of State on the subject of these deportations, and the matter is still under consideration."

The Hon'ble MR. GOKHALE: "Have the Government inquired into the condition in which the deportees arrived in India and into the charges which have been made of their ill-treatment on board ship?"

The Hon'ble MR. ROBERTSON: "Yes, Sir, such inquiries have been made both at Bombay and Madras from the returned Indians. The inquiries were made because of allegations as to bad treatment and improper food, more particularly on board ship. Though we should not minimise the inconvenience and hardship to which the returned Indians have been put by their summary

[*Mr. Robertson; Mr. Gokhale; Sir Guy Fleetwood* [5TH AUGUST 1910.]
Wilson.]

deportation from South Africa, it must be stated that the reports which we have received do not generally bear out the allegations to which I have referred. The general tenor of the reports has been that the deported Indians rather gloried in the experience which they had passed through and were prepared to make light of the inconveniences to which they had been put. For the information of the Hon'ble Member I shall briefly mention the gist of some of the reports we have received.

"The Commissioner of Police, Bombay, reported regarding the first batch of deported Indians who reached Bombay in May, with regard to whose treatment most complaint was made, that the men were cheerful and showed little signs of having suffered hardships. They did not express anxiety about their families left behind in South Africa. It is true that most of them had no money on arrival in India and had to be assisted with funds collected locally, but the one desire they expressed was to return to South Africa to continue the struggle.

"A further report has been received about a batch of returned Indians who reached Bombay on the 11th July by the *S. S. Praesident*. They said they had been conveyed by rail second class to Lorenzo Marques and had been well treated and fed on the railway and at Delagoa Bay, but they complained against the food and accommodation on board ship. They had no reports of ill-treatment to make and were cheerful and healthy looking.

"Of the batch which arrived in Madras early in June *via* Colombo and Tuticorin, the Protector of Emigrants, Madras, was able to record the statements of only 4 persons, as the remainder had gone to various places in the Madras Presidency. The Protector of Emigrants reported that they were all respectably attired in European style and that their appearance evidenced anything but a miserable condition or bad treatment on the voyage to India."

The Hon'ble MR. GOKHALE asked:—

"Will the Government state what is the total amount that has been spent up to now out of current revenues on railway construction in British India?"

The Hon'ble SIR GUY FLEETWOOD WILSON replied:—

"As regards the construction of railways (mainly protective and strategic lines) which has been specifically charged to revenue, the Hon'ble gentleman will find the latest information at page 247 of the Finance and Revenue Accounts for 1908-09. The expenditure on this account up to 31st March 1910 was approximately £10½ millions.

"The funds for the capital expenditure on ordinary railways, however, are drawn from our cash balances, and exceed by considerable amounts the sums which are raised by loan for railway construction. But it is not possible to say with precision to what extent the current revenues have contributed to those funds in the past. The resources from which the capital expenditure is derived were not classified until the year 1905-06. From that year onward, however, the information desired by the Hon'ble Member is available, and he will find it in full detail at page 245 of the Finance and Revenue Accounts for 1908-09."

The Hon'ble MR. GOKHALE asked:—

"Will the Government be pleased to state if the examination of my proposals on the subject of elementary education, which was promised last March, has been concluded? Are the Government in a position to state what steps are in contemplation to provide for a large extension of elementary education in the country?"

[5TH AUGUST 1910.] [Mr. Earle; Mr. Gokhale; Sir Guy Fleetwood Wilson; Pandit Madan Mohan Malaviya; the Commander-in-Chief; Lieutenant Malik Umar Hyat Khan.]

The Hon'ble Mr. EARLE replied :—

"The examination of the proposals regarding elementary education referred to in the Hon'ble Member's question has been undertaken, but is not yet concluded: the Government of India are therefore not yet in a position to make a pronouncement upon the subject."

The Hon'ble Mr. GOKHALE asked :—

"Will the Government be pleased to state what form the proposed inquiry into the growth of expenditure, foreshadowed by the Hon'ble the Finance Member in his speech on the Budget last March, will take, and when it will begin?"

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

"The Hon'ble Member presumably refers to the remarks made in my speech of 30th March last regarding the necessity for carefully watching the growth of Civil Expenditure and considering the directions in which economy is possible. The examination which I then foreshadowed of the financial position and outlook has already been undertaken in the Finance Department and is making steady progress."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA asked :—

"Will the Government be pleased to lay a statement on the table showing in what districts and under what circumstances the Prevention of Seditious Meetings Act of 1907 has been enforced since it was passed?"

The Hon'ble Mr. EARLE replied :—

"All the information asked for by the Hon'ble Member will be found in the return* which is being laid on the table in response to a request made by the Hon'ble Babu Bhupendra Nath Basu, with the exception of the circumstances in which the Backerganj District in Eastern Bengal and Assam, and the Rohtak District in the Punjab, were proclaimed in November 1907 and June 1910, respectively. As regards the former the reason for the action taken was the general turbulence of the district at that period. The Rohtak District was proclaimed because meetings were being organised at which subjects likely to cause disturbance and public excitement were to be discussed."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA : "Will the Government be pleased to state the nature of the subjects that were likely to be discussed, whether they were those bearing on politics or religion or social reform?"

The Hon'ble Mr. EARLE : "I think that the subjects were all of those which the Hon'ble Member has referred to: they were social, political, and religious; that is what I can remember from the papers."

CANTONMENTS BILL.

His Excellency THE COMMANDER-IN-CHIEF presented the Report of the Select Committee on the Bill further to amend the Cantonments Act, 1889.

His Excellency THE COMMANDER-IN-CHIEF moved that the Report of the Select Committee be taken into consideration.

The Hon'ble LIEUTENANT MALIK UMAR HYAT KHAN said :—"The present Bill to consolidate and amend the law relating to cantonments which is now before the Council is undoubtedly a very useful measure, but certain amendments in it might have been needed. I wanted to propose some which were to the effect—

"Firstly, section 11 to include relations and other members of a soldier's family in order to give the terms a wider scope. Secondly, section 13 (2)

[*Lieutenant Malik Umar Hyat Khan; Pandit Madan Mohan Malaviya.*] [5TH AUGUST 1910.]

to empower the police-officer to seize and detain any spirituous liquor or intoxicating drug within the cantonment in the case of a second offender as well as a first. This is necessary because by the time the officer gets written permission from the Magistrate the offender may conceal or dispose of the contents and it may be difficult to find a clue afterwards to prove the charge. Thirdly, section 24 (17) to make a distinction between the unenclosed spaces belonging to private individuals and those belonging to the Government. Fourthly, section 24 (22) to provide compensation for the destruction of animals in cases where compensation is allowed by any law or enactment for the time being in force for such diseases. Fifthly, section 24 (23) to suggest an inquiry and the assignment of reasons in case the commanding officer deems the exclusion of any person from the cantonment expedient. Sixthly, section 24 (26) to include the registration of marriages together with the registration of births and deaths as some people use cantonments as a shelter in certain cases. Seventhly, section 25 (4) to provide simple imprisonment for offences referred to in the section, to dispense with the imposition of daily fines, and to suggest that the order should be final and not with prospective effect. I may also have said something about taxes.

“But as it is not the custom to propose amendments in consolidating Bills, I did not press them. I had written all the answers to objections in some of the memorials sent to Hon'ble Members, but as they are not before the Council, I do not take their time.

“I think that the Bill, as it stands, is a mild one knowing the affairs and the class of people who loiter around and muster in cantonments and with whom the cantonment authorities have to deal.

“With these remarks I beg to support the Bill.”

The Hon'ble PANDIT MADAN MOHAN MALAVIYA said :—“I should like to say a few words, Sir, before this Bill is passed. I understand, now that the Cantonment Acts have been consolidated, that there would be a question whether the Cantonment Code should not be revised and whether the rules which the Act empowers the Governor General in Council to make under the Act will not have to be formally reframed. I hope that this will be done, and I hope that the opportunity will be taken to consider some of the complaints which have been made from time to time with regard to the rules made under the existing Act. I hope both His Excellency the Commander-in-Chief and the Government of India will consider the desirability of making some distinction between sadr or Indian bazars, as they are now generally called, and regimental quarters proper, where the troops reside. In the sadr bazars a large number of Indians have taken up their abode, have invested much money in property and are carrying on trade or pursuing their professions. When the stringent rules of the cantonments are applied to these Indian bazars in the matter of the expulsion of persons, who are regarded as ‘undesirable’ and of persons whose exclusion from the cantonment area the Commanding Officer considers to be desirable, it gives rise to serious complaints of injustice and hardship. There have been cases published in the papers in which complaint has been made that the expulsion has been unjust. I do not wish to go into these cases at present, but I beg His Excellency the Commander-in-Chief and the Government to consider whether it is not desirable, in the case of persons who reside, not in the regimental quarters proper, but in the Indian bazars, to make some better provision to provide against cases of injustice in action taken under sections 210 and 211 of the Cantonment Code. In the matter of taxes also, there is a complaint that they are too many and in some places too heavy. And it is urged that in order to give the taxpayers an opportunity to have their interests and views presented to the military authorities with regard to the nature and rate of the taxes, and generally with regard to the administration of the rules and regulations which affect them, they should be given the right of electing a few of their representatives on the Cantonment Committee. This privilege has been extended to Indian residents in some of

[5TH AUGUST 1910.] [*Pandit Madan Mohan Malaviya; Mr. Madge; Mr. Sinha; the Vice-President.*]

the cantonments. It would provide an effectual remedy against many small complaints if it is extended in others. I hope these matters will receive consideration. I hope also that when the Code is being revised the public will be given an opportunity to offer suggestions for the consideration of the military authorities and the Government. With these remarks I beg to support the motion that has been made."

The Hon'ble MR. MADGE: "Mr. President, I desire very briefly and very respectfully to submit for consideration to His Excellency the Commander-in-Chief and the Law Member the question whether the omission of the words 'or otherwise' in the 25th section of this Act would entail any serious inconvenience, or any inconvenience at all, on the cantonment authorities. At the last moment, when it is too late for me either to put any question or submit any amendment, if I had a desire to do so, I have received a number of papers from a sanitary depôt on the Himalayas, which is not only not a cantonment, but has never been declared to be a cantonment, in fact has been declared not to be a cantonment, all of which I have not been able to read in the short time at my disposal, but from which it will clearly be seen a good deal of friction has arisen in this depôt from the desire of the Government to convert it into a cantonment. Now, no sensible person in my humble opinion questions the paramountcy of those military considerations which make the authority of the cantonment officer supreme. What I have to say does not impinge at all upon those privileges which the Government has rightly reserved for its cantonment authorities. The point which I wish to make out is this: under section 3 of the Act power is conferred on Local Governments to make any place a cantonment. Then, considerable powers are conferred or will be vested in the cantonment authority, which may in some instances be a committee, or, if a committee be not appointed, be a single person, such as the Commandant. In the case to which I have referred....."

The Hon'ble MR. SINHA: "I rise to a point of order. I do not think the Hon'ble Member is in order in moving these amendments, which I understand he is doing."

The VICE-PRESIDENT: "I did not understand that the Hon'ble Member intended to move an amendment; but if it is his intention to do so, he is clearly out of order."

The Hon'ble MR. MADGE: "I implied at starting that it was not my intention to move any amendment. I wanted only very briefly and very respectfully to submit these points for the consideration of His Excellency the Commander-in-Chief. May I proceed?"

THE VICE-PRESIDENT: "You may proceed, but you will not be in order in moving amendments."

The Hon'ble MR. MADGE: "I have no desire to move any amendments at all. I simply wish to call attention to these facts which are deserving of consideration and which, I feel certain, will receive the consideration of His Excellency if they are brought to his notice.

"A considerable amount of private property has grown up in this place and friction has arisen from the desire to make this place a cantonment. Well, Sir, the appeal will be made entirely to the justice of the Government and will be left entirely in the hands of the Government. What these people will look for, I presume, will be some sort of compensation as is always justly made by the Government. What occurred to me in reading the papers in the very little time I had to read them, was that the words 'or otherwise' after the word 'compensation' in section 26 introduced an unknown alternative. If, as it is, the compensation is left in the hands of Government, appeals for compensation will be made to the Government and decided by the Government, and it will probably create a good deal of anxiety if some other alternative, included in the words 'or otherwise,' which is not described, remained in the law."

"I simply submit this point for consideration."

Mr. Sinha; Babu Bhupendra Nath Basu; the Commander-in-Chief. [5TH AUGUST 1910.]

The Hon'ble MR. SINHA: "Mr. President, I think I ought to explain to Hon'ble Members that when there is a consolidation Bill, properly so called, before the Council, it is not the practice either of this Council, or of any other legislative assembly that I am aware of, to introduce amendments or to comment on the Act generally. In fact, the work of consolidation would be absolutely impossible if, every time that we undertook that work, the whole Act was put, so to speak, in the melting pot for Members to comment on the policy of the Act generally. The origin of the present Bill, as Hon'ble Members will remember, was this: two trivial amendments were proposed by the Army Department through His Excellency the Commander-in-Chief, namely, (1) to confer the right to prevent indiscriminate use being made of open spaces in cantonments; and (2) to remedy an omission which existed in the Act as it stood inasmuch as it did not give power to impose penalties for the non-payment of taxes which could be levied under a particular section. These were the only two amendments which were in question, and the Legislative Department took advantage of the opportunity to consolidate the Act by omitting certain words which were no longer necessary by reason of the subsequent General Clauses Act. That was the whole object of the Act, namely, consolidation and a few merely verbal changes were made such as putting in the words 'His Majesty' instead of 'Her Majesty' as it existed in the old Act. That is all that has been done, and I only explain this with a view to future occasions when the work of consolidation may be undertaken with regard to other Bills, that when we are consolidating all that we are doing is to put in one Act that which up to that moment exists, probably, in eight, or nine, or ten, merely for the purpose of convenience of reference, so that you may not have to refer to eight Acts instead of one. That is all that is done, and, on these occasions, I hope Members will satisfy themselves that nothing beyond consolidation has been attempted. That is all that they ought to do on these occasions. It is not the intention, and consolidation would be impossible, as I said, if every time we put together eight Acts in one, the whole policy underlying those eight Acts was to be brought under discussion."

The Hon'ble BABU BHUPENDRANATH BASU: "May I be permitted to call the Hon'ble Member's attention to the preamble of the Act,—'Whereas it is expedient to consolidate and amend.'"

The Hon'ble MR. SINHA: "Yes, that refers to the two amendments that I drew the attention of Hon'ble Members to—the two trivial amendments that I spoke of."

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF moved that the consolidating Bill proposed by the Select Committee be passed. He said:—"My Hon'ble Colleague Mr. Sinha has explained what these two amendments are, and they have been before the Committee; so there is no good my saying any more about it."

The motion was put and agreed to.

ARMY BILL.

His Excellency THE COMMANDER-IN-CHIEF moved for leave to introduce a Bill to consolidate and amend the law relating to the government of His Majesty's Native Indian Forces. He said:—"I may explain that with the lapse of time the Indian Articles of War, originally framed in 1869 and amended in 1894, have become unsuited to modern conditions and have been found to require amendment in many respects. Legislation having thus become necessary, the opportunity has been taken to prepare a new and, it is hoped, a simpler code of military law instead of attempting to modify the existing Articles which have already been obscured by numerous amendments."

The motion was put and agreed to.

[5TH AUGUST 1910.] [The Commander-in-Chief; Mr. Earle.]

His Excellency THE COMMANDER-IN-CHIEF introduced the Bill.

His Excellency THE COMMANDER-IN-CHIEF 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 local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN CENSUS BILL.

The Hon'ble MR. EARLE presented the Report of the Select Committee on the Bill to provide for certain matters in connection with the taking of the Census. He said :—" The Select Committee's Report is on the table. We have made very few additions to the Act and those that have been made were explained by the Hon'ble Home Member at the last meeting of the Council a fortnight ago. The only one of any importance whatever is that referred to in paragraph 5 of the Report. It relates to an amendment of clause 9 of the Bill, making provision so that we can obtain information regarding skilled and unskilled hands in factories. At the census of 1901, as the Hon'ble Member explained at the last meeting, it was very difficult to extract from the ordinary census schedules the information that we required as regards industries, and on this occasion we have provided a special schedule so as to show the skilled and unskilled hands. That is the only real amendment that has been made and I have nothing further to say in regard to the Report of the Select Committee."

The Hon'ble MR. EARLE moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. EARLE moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Saturday, the 6th August 1910.

SIMLA;
The 11th August 1910.

R. SHEEPSHANKS,
Offg. Secretary to the Government of India,
Legislative Department.