

*Friday,  
18th October, 1907*

**ABSTRACT OF THE PROCEEDINGS**

**OF THE**

**Council of the Governor General of India,**

**LAWS AND REGULATIONS**

**Vol. XLVI**

**April 1907 - March 1908**

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OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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VOLUME XLVI



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The Council met at the Viceregal Lodge, Simla, on Friday, the 18th October, 1907.

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 Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erie 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 Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. BAKER moved that the Report of the Select Committee on the Bill further to amend the Local Authorities Loan Act, 1879, be taken into consideration. He said :—“When I introduced this small Bill last cold weather I explained its object and scope : and at the last meeting of Council, in presenting the Report of the Select Committee, I pointed out that it was self-contained. I will therefore not take up the time of Council by making any observations upon it now.”

The motion was put and agreed to.

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

The motion was put and agreed to.

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[*Sir Harvey Adamson.*]

## PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill to make better provision for the prevention of meetings likely to promote sedition or to cause a disturbance of public tranquillity. He said :—" My Lord, this Bill is founded on and is a sequel to the Regulation of Meetings Ordinance 1907. The Ordinance was enacted in May last on account of the acute disorder that prevailed in the Punjab and in Eastern Bengal. The limit of the life of an Ordinance is six months, and it will in natural course expire on the 10th November. We had hoped that the need for an enactment of this kind would cease before the Ordinance expired, but in this hope we have been disappointed. It has become painfully apparent that persistent attempts continue to be made to promote sedition and to cause such ill-feeling as is calculated to disturb the public tranquillity, and that these attempts are not confined to the two Provinces which came under the scope of the Ordinance. The Bill which I have introduced extends to the whole of British India, but its operation is restricted to such provinces as the Governor General in Council may from time to time notify, and even within these provinces the operation is restricted to such areas as the Local Government may declare to be proclaimed areas. It is not necessary for me to reiterate the provisions of the Ordinance which has already been before the public for some months. Suffice it to say that the Ordinance gave power to prohibit only such meetings as, on a scrutiny of the circumstances, a responsible officer believed to be likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity. And a chief object of the Ordinance was not to prohibit public meetings but to insure that our officers should have admission to all public meetings so that evidence might be available if the proceedings were unlawful. These also are the principles of the Bill. I will content myself to-day with explaining the chief points in which the present Bill differs from the Ordinance. The Ordinance has been in operation sufficiently long to give ample opportunity of estimating the measure of its success and the measure of its failure. It has been urged upon us by both of the Local Governments which administered it that a main difficulty lies on the threshold inasmuch as the term " public meeting " was not defined. It is difficult and even impossible to say in general terms where an exact line of discrimination lies between public and private meetings. Nevertheless, though it may be impossible to frame a definition that is in all respects complete, the experience of the past few months has shown that if the object of the Bill, the regulation or prevention of meetings harmful to the peace of the country, is to be achieved at all, some indication must be given both to our officers and to the courts of

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the considerations that will enable them to determine whether a particular meeting is public or private. As instances of the evasion of the object of the Ordinance I may mention that meetings of some hundreds of persons have been held without notice in private places, which to all intents and purposes were public meetings, but from which our officers were excluded. In other cases admission has been given only to such persons as were passed by the door-keepers. In the definition of "public meeting", which we have framed as clause 3 of the Bill, the first sub-clause, which is the main part of the definition, is sufficiently wide to embrace all public meetings that are likely to be detrimental to the public peace. This is the chief requirement in a Bill whose object is to counteract a dangerous mischief, and which is intended to meet only exceptional circumstances and to be applied only in exceptional places, and under which the public are safe-guarded by the provision that prohibition is always subject to the discretion of officers of high standing and of large experience. But I admit that there is great difficulty in framing a definition which is at once wide enough and yet not too wide, and I shall not be indisposed to consider criticisms of the definition in Select Committee. The second sub-clause is explanatory and guards against an attempted evasion which I have already mentioned, by declaring that a meeting is not necessarily excluded from the definition merely because it is held in a private place or because admission has been restricted. The third sub-clause creates a presumption which may be disproved, namely, that a meeting held in a proclaimed area and consisting of more than twenty persons shall *primá facie* be presumed to be a public meeting. If the danger to the public tranquillity is so great as to render it necessary to notify a place as a proclaimed area, it is reasonable that law-abiding persons residing within that area should be prepared to suffer some slight inconvenience for the public good, and we consider that it is not too much to require such persons to take the trouble to give notice or obtain formal permission if within the proclaimed area they desire to hold a public meeting for any political and lawful object.

"Besides the extension and the definition the only difference of substance between the Ordinance and the Bill is that in the latter we have introduced a clause prohibiting under a penalty the delivery of speeches likely to cause disturbance or ill-feeling or speeches on political matters, or the exhibition of writing relating to such subjects, in public places in proclaimed areas, without the permission of the proper authority. This is simply a necessary corollary of the power to prohibit public meetings.

"I may add that the Ordinance required that seven days' notice should be given before a public meeting could be held. With the view of meeting public convenience we have in the Bill added the alternative of obtaining permission.

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“ I will now refer to the somewhat unusual nature of the procedure that has been adopted in respect of this Bill. The Bill was published in the *Gazette of India* on the 12th October with an intimation that it would be introduced to-day. To-day it has been introduced and I am presently going to move that it be referred to a Select Committee, with instructions to report within a week. I propose to present the Report of the Select Committee on the 25th October, and to move on the 1st November that the report be taken into consideration. The Bill has thus the appearance of having been crowded rather hurriedly into the end of a legislative session, and I will explain the reason. In the first place we had hoped, as I have said, that a temporary measure of repression would be sufficient to meet the crisis of disorder, and that it would not become necessary to resort to permanent legislation. In the second place we put some trust in measures that were the opposite of repressive. The Government of India have all along recognized that unrest is not solely the outcome of seditious agitation, but has its basis on the natural aspirations of educated Indians. To meet these aspirations and to associate Indians more closely in the administration of the country we formulated a large and generous scheme of reform which is now before the public for criticism. With this earnest of our desire to meet grievances we had hoped that the necessity for repression would cease. But as time rolled on it became more and more apparent that such hopes were doomed to disappointment, that we had to deal with a section of irreconcilables, and that it would be necessary to continue the principles of the Ordinance as substantive law. With all our hopes, however, we had not lost sight of the possibility that such a measure might be necessary. Ordinances are enacted in times of emergency, and though it may be easy to see the general lines of the remedy, there is little time or opportunity for a complete settlement of details. It might be expected therefore that the Regulation of Meetings Ordinance, somewhat hurriedly drawn and designed to meet circumstances that had not yet fully developed, would not be free from imperfections. After allowing to the two Local Governments which had administered the Ordinance sufficient time to enable them to ascertain by actual experience its merits and defects, we obtained reports from them and at the same time elicited the opinions of other Local Governments, and on these reports and opinions we framed the Bill which I have introduced to-day. The recognition of a necessity for legislation involved also a recognition of the necessity that there should be no *hiatus*, and that the substantive law should be ready to come into operation when the Ordinance expired. These are our reasons for legislating in Simla, and for the seemingly hasty nature of our operations. But the Bill is a short one, comprising only a few clauses. The whole of it, with the exception of two clauses of substance, has been before the public

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for over five months. From the date of its publication in the *Gazette* to the date on which it will be finally considered an interval of twenty days has been allowed. I am confident that the time is sufficient for a full consideration of the merits of the Bill, but I regret the inconvenience that has been necessarily caused to Hon'ble Members who reside in the plains and who may wish to come to Simla to take part in the discussion.

"I have no desire to disguise the fact that the Bill is a repressive measure of considerable potency. The evil that has been done and is being done by disloyal agitators will, I trust, make it abundantly clear to all who have the interests of peace and order at heart that in the present condition of India a strong measure is necessary."

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. Richards, the Hon'ble Mr. Baker, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Gokhale and the mover, with instructions to report at the next meeting of the Council. He said :—"My Lord, the reference of a Bill to a Select Committee marks the stage when the principle of the measure ought to be discussed and affirmed or rejected. The Hon'ble Dr. Rashbehary Ghose, who I regret to say is opposed to the Bill, has suggested to me that as the opposition have not fully mustered to-day, the discussion of the principle of this Bill might with convenience be postponed to the stage when the Report of the Select Committee is taken into consideration. I fully recognize that Hon'ble Members have been rather hurried by the procedure that has been adopted, and I need scarcely say that I am most willing to consult their convenience, and to give them every opportunity for a full discussion of the Bill. I will therefore be glad, with Your Lordship's permission, to accept the suggestion made by the Hon'ble Member, and to permit the discussion of the principle of the Bill to be postponed to the stage when the Report of the Select Committee is taken into consideration."

The Hon'ble DR. RASHBEHARY GHOSE said :—"My Lord, though I am strongly opposed to the Bill, I do not propose to speak on it to-day ; but reserve my right to do so at a subsequent stage, when other unofficial members are expected to be present and to take part in the debate."

The motion was put and agreed to.

[18TH OCTOBER, 1907.]

[*Sir Harvey Adamson.*]

## LEGAL PRACTITIONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill further to amend the Legal Practitioners Act, 1879. He said :—" My Lord, the Bill which is referred to in the motion standing in my name is intended to give effect to two proposals affecting legal practitioners in this country.

" One of these proposals relates to the fees which are at present charged to Vakils and Attorneys for the liberty of practising as pleaders in the jurisdiction of some High Court other than the Chartered High Court on the rolls of which they are entered. I may explain to the Council that Vakils and Attorneys become such by entry on the rolls of a Chartered High Court, and that, on their first enrolment, these gentlemen pay the consolidated fee prescribed by the Indian Stamp Act, which amounts in the case of a Vakil to Rs. 500 and in the case of an Attorney to Rs. 250. The Stamp Act expressly exempts them from any further fee for the privilege of being enrolled as Vakils or Attorneys, respectively, in another Chartered High Court. But some of those who become Vakils and Attorneys may not for various reasons wish to practise as such in a Chartered High Court. They may wish to practise as pleaders in a non-Chartered High Court (such as the Chief Court of the Punjab), or in the Courts subordinate to some High Court other than the Chartered High Court in which they are enrolled. The point is that the privilege of so practising as pleaders, if it be obtained, is an expensive privilege and involves the payment of annual fees in accordance with the scale prescribed by section 25 of the Legal Practitioners Act. One object of the Bill is to do away with these annual payments and so to remove the apparent anomaly in the law which I have indicated and which seems to have been felt as a hardship by members of the profession, more especially in the Punjab, in Burma and in Oudh. The attention of the Government of India, I may add, was recently directed to the matter by a communication received from the Judicial Commissioner of the last mentioned Province through the Government of the United Provinces.

" As to the second proposal, it is thought that the time has come when the privilege conferred on Advocates generally and on the Vakils of the Chartered High Courts by section 4 of the Legal Practitioners Act may be extended to pleaders enrolled in the Chief Court of the Punjab. In other words, it is proposed that pleaders who ordinarily practise as pleaders of the Chief Court shall, subject to the qualifications specified in the section, enjoy the right of occasional audience in other Courts in British India, to which circumstances may



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from time to time take them. This proposal is embodied in clause 2 of the Bill which I now ask leave to introduce."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Friday, the 25th October, 1907.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,  
Legislative Department.*

SIMLA ;  
The 18th October, 1907. }