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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend Act V of 1861 (*an Act for the Regulation of Police*) was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 14th February 1895:—

We, the undersigned, Members of the Select Committee to which the Bill to amend Act V of 1861 (*an Act for the Regulation of Police*) was

- referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.
- From Chief Commissioner, Coorg, No. 2052—156-94, dated 15th November 1894 [Paper No. 1].
From Agent to Governor General, in Baluchistan, No. 7810, dated 10th December 1894 [Paper No. 2].
From Government, Punjab, No. 1080-S., dated 15th October 1894, and enclosures [Papers No. 3].
From Chief Commissioner, Burma, No. 146—7-P-S, dated 5th October 1894, and enclosures [Papers No. 4].
From Chief Commissioner, Ajmere-Merwara, No. 58-C., dated 29th December 1894, and enclosure [Papers No. 5].
From Chief Commissioner, Assam, No. 138-L, L.—8366-J., dated 31st December 1894 [Paper No. 6].
From Resident, Hyderabad, No. 411, dated 30th December 1894, and enclosures [Papers No. 7].
From Government, North-Western Provinces and Oudh, No. 18, dated 4th January 1895, and enclosures [Papers No. 8].
From Government, Bengal, No. 77-J., dated 7th January 1895, and enclosures [Papers No. 9].
From Chief Commissioner, Central Provinces, No. C-5, dated 16th January 1895, and enclosure [Papers No. 10].
From Government, North-Western Provinces and Oudh, No. 61, dated 11th January 1895, and enclosures [Papers No. 11].
From High Court, Calcutta, No. 240, dated 22nd January 1895, and enclosure [Papers No. 12].
From Government, North-Western Provinces and Oudh, No. 128, dated 24th January 1895, and enclosure [Papers No. 13].
From Indian Relief Society, Calcutta, dated 31st January 1895 [Paper No. 14].
From Government, North-Western Provinces and Oudh, No. 153, dated 1st February 1895, and enclosure [Papers No. 15].
From Honorary Secretary, Indian Relief Society, Calcutta, dated 7th February 1895 [Paper No. 16].

to make it cover any person appointed by the Local Government to perform all or any of the duties of a District Superintendent of Police under the Act in any district.

3. We have in section 2 restored the original words of section 7 of the Act and thus limited the imposition of these minor punishments to cases in which officers discharge their duties in a careless or negligent manner or by their own acts render themselves unfit for the discharge thereof. At the same time we have authorized the imposition of one or more of these punishments, as we are of opinion that there may be cases in which it may be desirable to have such authority.

4. We have made no substantial alteration in section 3 of the Bill as introduced.

5. We have made important changes in section 4 of the Bill as introduced. We have in the first place provided for the issue of a preliminary proclamation by the Local Government, declaring a local area

to be in a disturbed or dangerous state or that the conduct of the inhabitants is such as to make it expedient to increase the number of police. The notification of this proclamation of the Local Government must precede the further action to be taken either in the direction of quartering an additional police-force under this section or of the award of compensation for injuries suffered under the next section, to which we shall presently refer. We have maintained the liability of the inhabitants of the proclaimed area to bear the cost of additional police, and, following the principle of the English law on the subject, we have included in the term "inhabitants" all persons who directly hold property or collect rents within the local area. We have given the District Magistrate, acting with the consent of the Local Government, power to exempt persons or a class or section of the inhabitants from liability to contribute to such cost. The power to exempt "persons" has been inserted with the object of enabling the Magistrate to exempt individual holders of property in the area. We have also empowered the Magistrate to revise his order of exemption on his own motion at any time, or on application made within one month in that behalf.

6. We have re-drafted section 15A, proposed by section 5 of the Bill as introduced, so as to harmonize its procedure with that now adopted in section 15. We have made the action of the Magistrate under the section dependent first upon the receipt of an application for compensation and next on the sanction of the Local Government to that application being considered. We have placed the responsibility, as in section 15, on all the inhabitants of the proclaimed area, the word "inhabitants" being declared to have the same meaning as in section 15. We have given the Magistrate power, with the sanction of the Local Government, to make exemption from the liability to pay compensation, and, following the plan of section 15, authority to revise his order in that behalf.

7. Instead of proposing certain amendments in section 16 of the Act, we have thought it better (section 6 of our amended Bill) to redraft the whole section so as to make it provide for the recovery of moneys payable under sections 13, 14, 15 and 15A, for the crediting of the moneys recovered under the first three of these sections to the general Police Fund, and for the payment of those recovered under the last section to the persons to whom, and in the proportions in which, the same are payable under that section.

8. We have (section 7 of our amended Bill) added a clause to section 26 of the Act applying the provisions of section 525 of the Criminal Procedure Code to property referred to in this section. This supplies a want which has been felt.

9. We have (section 10 of our amended Bill) recast section 30 of the Act, expanding the new portion proposed by section 7 of the Bill as introduced so as to make the procedure in connection with the requirement of licenses for certain assemblies and processions more clear and definite. We have added a clause prohibiting the taking of any fee when such licenses are applied for or granted. We have also made it clear that the regulation of the use of music in the streets includes the suspension when necessary of its use.

10. We have (section 11 of our amended Bill) expanded the new clause which section 8 of the Bill as introduced proposed to add to section 31 of the Act, making it into a separate section and adding a sub-section declaring that any procession or assembly which neglects or refuses to obey an order to disperse shall be deemed to be an unlawful assembly, and thus liable to be dealt with under the provisions of Chapter IX of the Criminal Procedure Code.

11. We have (section 13 of our amended Bill), by the addition of certain words, made it clear that the offences punishable under section 34 of the Act, if committed in a street or thoroughfare, shall be equally punishable if committed in any place open to the public, though not a street or thoroughfare.

12. Section 9 of the Bill as introduced repealed sections 37, 38, 39, and 40 of the Act, which provide a special procedure for the recovery of fines and applied to such recovery the general provisions of the Penal and Criminal Procedure Codes referred to in section 5 of the General Clauses Act, 1868. It appeared, however, that the effect of applying section 65 of the Penal Code and repealing section 39 of the Act would be to reduce the term for which a person might now be imprisoned in default of payment of fine imposed under section 34 of the Act from two months to two days. We have therefore provided that when a fine is imposed under section 34 of the Act, the imprisonment awarded in default of payment may, notwithstanding anything in section 65 of the Code, extend to eight days, being the period of imprisonment which may be awarded under the section irrespective of fine.

13. Section 46 of the Act at present enables the Government of India to extend the whole of the Act to any Presidency, Province or place. We have (section 15 of our amended Bill) modified that section so as to enable the Government to extend a part of the Act as well as the whole.

14. We have made some other amendments which are either consequential on those noticed above or do not call for explanation.

15. The publication ordered by the Council has been made as follows:—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India	20th October 1894.
Calcutta Gazette	31st October 1894.
North-Western Provinces and Oudh Government Gazette...	...	27th October 1894.
Punjab Government Gazette	25th October 1894.
Central Provinces Gazette	27th October 1894.
Burma Gazette	10th November 1894.
Assam Gazette	10th November 1894.
Coorg District Gazette	1st November 1894.

In the Vernaculars.

Province.	Language.	Date.
Bengal	Bengali	20th November 1894.
	Hin di	4th December 1894.
	Urdu	23rd November 1894.
Punjab	Urdu	29th November 1894.
Central Provinces	Hindi	12th December 1894.
Burma	Burmese	17th November 1894.
Assam	Bengali	1st December 1894.

16. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

17. Our honourable colleagues the Mahārājā of Durbhanga, G. M. Chitnavis and Babu Mohiny Mohun Roy have agreed to this Report subject to their dissent from part thereof hereto appended.

(Signed)	A. P. MACDONNELL.
(")	ALEX. EDW. MILLER.
(")	LAKSHMISHWAR SINGH.
(")	G. M. CHITNAVIS.
(")	W. LEE WARNER.
(")	M. M. ROY.
(")	F. W. R. FRYER.

The 13th February 1895.

I regret that I cannot recommend the Bill to be passed in its present shape. I believe that there is still much left in the Bill which can be reasonably objected to, especially in reference to Sections 4, 5 and 10 of the Bill; in fact, I doubt, with many of those high executive and judicial authorities who have expressed their opinion on the subject, whether the power of exemption given to the Magistrates without anything like a judicial or quasi-judicial procedure would, in most cases, be exercised without inconvenience, and whether Section 5 ought at all to find place in the Police Act.

(Signed) G. M. CHITNAVIS.

Sections 4, 5 and 6 of the Bill are, in our opinion, open to very serious objections. We cannot join in the recommendation that the Bill with those sections in it be passed into law. We propose to move an amendment in Council that they be struck out of the Bill, and deem it unnecessary to state at length our reasons in this note.

(Signed) MOHINY MOHUN ROY.
(") LAKSHMISHWAR SINGH.

NO. II.

A Bill to amend Act V of 1861 (an Act for the Regulation of Police).

WHEREAS it is expedient to amend Act V of 1861 (an Act for the Regulation of Police); It is hereby enacted as follows:

1. In section 1 of the said Act the following

Amendment shall be inserted between the words "general police-district" and the word "property," namely:—

"The words 'District Superintendent' and 'District Superintendent of Police' shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any District."

2. In section 7 of the said Act, in lieu of the

Amendment of section 7, words beginning "or fine any police-officer" down to the end of the section, the following shall be substituted, namely:—

"or may award any one or more of the following punishments to any police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely:—

- (a) fine to any amount not exceeding one month's pay;
- (b) confinement to quarters for a term not exceeding fifteen days, with or without punishment-drill, extra guard, fatigue or other duty;
- (c) deprivation of good-conduct pay;
- (d) removal from any office of distinction or special emolument."

3. For the second paragraph of section 8 of the said Act, beginning with the words "Such certificate shall cease to have effect" and ending with the words "officer empowered to receive the same," the following shall be substituted, namely:—

"Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

"A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties, and to the same authorities, as if he had not been suspended."

Substitution of new section for section 15, Act V, 1861.

4. For section 15 of the said Act the following shall be substituted, namely:

"15. (1) It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette, and in such other manner as the Local Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that from the conduct of the inhabitants of such area or of any of them, it is expedient to increase the number of police.

"(2) It shall thereupon be lawful for the Inspector-General of Police with the sanction of the Local Government to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

"(3) Subject to the provisions of sub-section (5) of this section the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

"(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means of such inhabitants within such area.

"(5) It shall be lawful for the Magistrate of the district, with the sanction of the Local Government,—

- (a) to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost;
- (b) to revise the order of exemption, either of his own motion, or on application made within one month of the date of such order by any person, or on behalf of any class or section of inhabitants as aforesaid.

"Explanation:—For the purposes of this section 'inhabitants' shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from tenants in such area, notwithstanding that they do not actually reside therein."

5. After section 15 of the said Act the following shall be inserted, namely:

"15A. (1) If, in any area in regard to which any proclamation has been notified under the last preceding section, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who has

suffered injury from such misconduct, to make, within six months from the date thereof, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

"(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section.

"(3) It shall be lawful for the Magistrate of the district, with the sanction of the Local Government,—

- (a) to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.
- (b) to revise the order of exemption either of his own motion or on application made within one month from the date of such order by any person or on behalf of any class or section of inhabitants as aforesaid.

"(4) Explanation.—In this section the word 'inhabitants' shall have the same meaning as in the last preceding section."

6. For section 16 of the said Act the following New section substituted shall be substituted, for section 16, Act V, 1861. namely:—

"16. (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the Code of Criminal Procedure for the recovery of fines, or by suit in any competent Court.

"(2) All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called 'The General Police Fund,' and shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.

"(3) All moneys paid or recovered under Section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section."

7. To section 26 of the said Act the following Addition to section 26, shall be added, namely:—

"(2) The provisions of section 525 of the Code of Criminal Procedure, 1882, shall be applicable X of 1882. to property referred to in this section."

Substitution of new section for section 27, Act V, 1861. 8. For section 27 of the said Act the following shall be substituted, namely:—

"27 (1). If no person shall within the period allowed claim such property, or the proceeds thereof if sold, it may, if not already sold under sub-section (2) of the last preceding section, be sold under the orders of the Magistrate of the district.

(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government."

9. In section 29 of the said Act, after the words "for the period of two months" the following shall be added, namely:—

Addition to section 29, Act V, 1861, respecting overstay of leave.

"or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave."

10. For section 30 of the said Act the following shall be substituted, namely:—

Substitution of new section for section 30, Act V, 1861.

"30. (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

"(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any place not being a private house or a place of worship or to form a procession which would, in the judgment of the Magistrate of the district or of the subdivision of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

"(3) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section: Provided that no fee shall be charged on the application for, or grant of, any such license.

"(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies."

11. After section 31 of the said Act the following section shall be inserted, namely:—

Addition of new section after section 31, Act V, 1861.

"31A. (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last

foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

"(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly."

12. In section 32 of the said Act, for the word "two," where it first occurs, the word "three," and in section 33 of the said Act, for the word "three" the word "four" shall be respectively substituted.

13. In section 34 of the said Act, after the words "or in any" the words "open place or" shall be inserted, and for the expression "residents and passengers" the expression "residents or passengers" shall be substituted.

14. For sections 37, 38, 39 and 40 of the said Act the following section shall be substituted, namely:—

"37. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, and of sections 386 to 389 both inclusive of the Code of Criminal Procedure, 1882, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate.

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days."

15. For section 46 of the said Act the following shall be substituted, namely:—

"46. (1) This Act shall not by its own operation take effect in any presidency, province or place. But the Governor General in Council by an order to be published in the Gazette of India may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place.

"(2) When the whole or any part of this Act shall have been so extended it shall be carried into effect in such presidency, province or place in such manner (not being inconsistent with this Act) as the Local Government, by an order to be published in the official Gazette, shall direct.

"(3) Any order issued under this section may be withdrawn by the authority which issued it."

16. All orders heretofore issued by the Governor General in Council or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substituted for the same by the last foregoing section.

J. M. MACPHERSON,
Officiating Secretary to the Government of India.