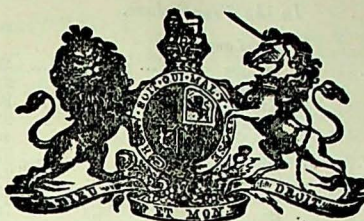


THE



Bombay Government Gazette.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Preliminary Report of the Select Committee on the Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th October, 1894 :

WE the undersigned, Members of the Select Committee to which the Bill to amend certain section

- From Chief Commissioner, Burma, No. 435—L-15, dated 17th August, 1894 [Paper No. 1].
- From Agent to Governor General in Baluchistan, No. 921-Z, dated 22nd August, 1894 [Paper No. 2].
- From Chief Commissioner, Coorg, No. 1571—100-94, dated 27th August, 1894 [Paper No. 3].
- From Chief Commissioner, Ajmere-Merwara, No. 32-C, dated 23rd September, 1894, [Paper No. 4].

- From Government, Madras, No. 2252, dated 15th September, 1894, and enclosures [Papers No. 5].
- From Resident, Hyderabad, No. 310, dated 24th September, 1894, and enclosures [Papers No. 6].
- From High Court, Calcutta, No. 2026, dated 11th September, 1894, and enclosure [Papers No. 7].
- From Government, Punjab, No. 973-S, dated 2nd October, 1894, and enclosures [Papers No. 8].
- From Government, North-Western Provinces and Oudh, No. 940, dated 26th September, 1894, and enclosures [Papers No. 9].
- From Government, Bengal, No. 1589-J. D., dated 1st October, 1894, and enclosures [Papers No. 10].

From Chief Commissioner, Central Provinces, No. C-247, dated 5th October, 1894, and enclosure [Papers No. 11].

From Chief Commissioner, Assam, No. 111-L. L.—6251-J., dated 2nd October, 1894, and enclosures [Papers No. 12].

From Government, Bombay, No. 6768, dated 6th October, 1894, and enclosures [Papers No. 13].

of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our preliminary Report, with the Bill as amended by us annexed thereto.

2. We have, in deference to a request from the Government of Bombay, made an addition to section 1 of the Bill with the object of enabling barristers who intend to practise in Sind to get enrolled as advocates of the High Court of Bombay and thus to obtain the privilege conferred on advocates of Chartered High Courts by the last paragraph of section 39 of the Code, but we have refrained from suggesting any other alterations in the Bill, as we consider that it should be reserved for consideration by a more numerous Committee than ourselves.

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

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India	14th July, 1894.
Fort Saint George Gazette	31st July, 1894.
Bombay Government Gazette	19th July, 1894.
Calcutta Gazette	25th July, 1894.
North-Western Provinces and Oudh Government Gazette	21st July, 1894.
Punjab Government Gazette	19th July, 1894.
Central Provinces Gazette	21st July, 1894.
Burma Gazette	4th August, 1894.
Assam Gazette	23th July, 1894.
Coorg District Gazette	1st August 1894.
Sind Official Gazette	9th August 1894.

In the Vernaculars.

Province.	Language.	Date.
Madras	Telugu	28th August 1894.
	Hindustani	28th August 1894.
	Kanarese	28th August 1894.
	Malayalam	28th August 1894.
Bombay	Tamil	4th September 1894.
	Marathi	23rd August 1894.
	Gujarathi	23rd August 1894.
	Kanarese	23rd August 1894.
Bengal	Bengali	7th August 1894.
	Uriya	16th August 1894.
	Hindi	28th August 1894.
North-Western Provinces and		
Oudh	Urdu	25th August 1894.
Punjab	Urdu	23rd August 1894.
Central Provinces	Hindi	12th September 1894.
Burma... ..	Burmese... ..	11th August 1894.
Assam... ..	Bengali	18th August 1894.
Sindh	Sindhi	9th August 1894.

4. We recommend that the Bill be recommitted to an enlarged Select Committee when the Council re-assembles at Calcutta, and that in the meantime the Bill as altered, with this Report, be published in English in the Gazette of India, the Bombay Government Gazette and the Sind Official Gazette.

ALEX. EDW. MILLER.

A. P. MACDONNELL.

BEDI KHEM SINGH.

The 16th October 1894.

No. II.

A Bill to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872.

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and to repeal certain sections of the Punjab Laws Act, 1872; It is hereby enacted as follows:

1. (1) In the third paragraph of section 39 of the said Code, between the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

(2) To the said section the following Explanation shall be added, namely:

"Explanation.—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction."

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely:

"The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

"The party beginning may then reply generally on the whole case."

3. After the first paragraph of section 260 of the said Code the following shall be added, namely:

"Provided that no decree for restitution of conjugal rights shall be enforced by imprisonment of the defendant, unless the Court shall, for sufficient reasons to be stated in writing on the face of the order, think fit so to direct."

4. For section 548 of the said Code the following Substitution of new section shall be substituted for section 548, titled, namely:

"548. When a memorandum of appeal is admitted, the appellant shall present as many copies thereof on plain paper as there are respondents.

"The chief ministerial or other proper officer of the Appellate Court shall sign such memorandum of appeal and copies, if on examination he finds them to be correct, and shall endorse thereon the date of presentation, and shall thereupon register the appeal in a book to be kept for the purpose.

"Such book shall be called the Register of Appeals."

5. At the end of section 553 of the said Code the following shall be added, namely:

"Every notice under this section served on any respondent or his pleader shall be accompanied by one of the copies of the memorandum of appeal mentioned in section 548."

6. Sections 17 and 18 of the Punjab Laws Act, 1872, as amended by Act XIV of 1872, and 18 of Punjab Laws Act XII of 1878, are hereby repealed.

J. M. MACPHERSON,

Deputy Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 18th October 1894 :—

Bill No. 15 of 1894.

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 Addition to interpretation clause, section 1, Act V, 1861. shall be inserted between the interpretations of 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 having charge of the administration of the police of a district in pursuance of a general or special order of the Local Government."

2. In section 7 of the said Act, in lieu of the words beginning "or fine any police-officer" down to the end of the section, the following shall be substituted, namely :

"or may award to him any of the following punishments, 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 his superior officer or some other 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."

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

"15. It shall be lawful for the Inspector General

Quartering of additional police in disturbed or dangerous districts.

of Police, with the sanction of the Local Government, to be notified by proclamation in the official Gazette, and in such other manner as the Local Government shall direct, to employ any police-force in excess of the ordinary fixed complement to be quartered in any part of the general police-district which shall be found to be in a disturbed or dangerous state, or in any part of the general police-district in which, from the conduct of the inhabitants or of any of them, he may deem it expedient to increase the number of police.

"The cost of such additional police-force shall be borne, as the Magistrate of the district may direct—

- (a) by the inhabitants of, or persons having interest in land in, the local area described in the notification, or both, or
- (b) by any such inhabitants or persons, or class or classes of such inhabitants or persons, or both, as aforesaid, as in the opinion of such Magistrate have caused or contributed to the disturbance or other cause which led to the quartering of the additional police-force, and no portion of such cost shall be payable by any person or class of persons who, in the opinion of the Magistrate, have been free from blame;

and such Magistrate, after enquiry if necessary, shall apportion such cost according to his judgment of their respective means among the inhabitants and other persons who are as aforesaid liable to bear the same."

5. After section 15 of the said Act the following shall be inserted, Addition of new sections after section 15 of Act V, 1861. namely :

"15A. If in any part of the general police-district as aforesaid, in which, under the provisions of the last foregoing section, an additional police-force might be quartered, death or grievous hurt or damage to property has been caused by or ensued from the misconduct of the inhabitants of, or persons having interest in land in such part, or both, and if no additional police-force has been quartered therein, it shall be lawful for the Magistrate of the district, with the previous sanction of the Local Government, to—

- (a) make an award fixing the amount of compensation payable to the sufferers from the injury caused by or which has ensued from such misconduct;
- (b) make an order determining the persons or class or classes of persons, being inhabitants of or having interest in land in such part as aforesaid, by whom the amount so awarded shall be paid; and
- (c) make an order assessing the proportion in which the same shall be paid by each such person or class of persons according to his judgment of their respective means :

Provided that no portion of the compensation so awarded shall be payable by any person or class of persons whom the Magistrate shall, in

such order, declare to be innocent of complicity with the misconduct.

"15B. An order made under section 15, clause Confirmation of orders (b), or an award or order and award under sections 15, clause (b), and 15A.

shall not take effect until it has been confirmed by

the Commissioner of the division or, where there is no Commissioner, by the Local Government.

"15C. When an assessment made under section 15A has been confirmed under the last foregoing section, the amount assessed shall be recoverable, under the warrant of 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."

6. In section 29 of the said Act, after the words "for the period of

two months" the following shall be added, namely:

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

7. To section 30 of the said Act the following shall be added, namely:

"30. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, and of sections 386, 387 and 389 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."

"And may also, in the case of any assembly or procession which in the judgment of the Magistrate of the district would, if uncontrolled, be likely to cause a breach of the peace, issue a license for the purpose of defining the conditions on which alone the assembly or procession is to be permitted to take place and otherwise giving effect to this section."

8. To section 31 of the said Act the following shall be added, namely:

"It shall be competent to any Magistrate or police-officer not below the rank of an Inspector to stop any procession, and call on it or any assembly which violates the conditions of a license granted under the last foregoing section to disperse."

9. 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, 387 and 389 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."

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend Act V of 1861 (*An Act for the Regulation of Police*). The Bill is partly based upon recommendations submitted by the Government of the North-Western Provinces and Oudh and the Committee appointed in those Provinces for the reform of the police-force. It is also designed to remedy certain defects in the Act of 1861 which have been brought to notice by judicial interpretations of that Act, and to supply provision for some contingencies which the Act does not at present meet.

2. Section 1 of the Bill is intended to remove any doubts as to the legal powers vested in an Assistant District Superintendent of Police or other person whom the Local Government may find it necessary to appoint to the charge of the police of a district.

3. By section 2 certain disciplinary punishments, recommended by the North-Western Provinces and Oudh Police Committee, are added to the punishments specified in section 7 of the Act.

4. It has been held by two High Courts that at present a policeman when suspended, even temporarily, ceases to be a member of the police-force and is no longer amenable to the provisions of Act V of 1861. Section 3 of Bill will enact that a police-officer shall not by reason of being suspended from office cease to be a police-officer or to be subject to responsibilities and discipline as such.

5. Section 4 will allow a discretion, which has been recognized as desirable, to levy the cost of an additional police-force from those persons only whose conduct has rendered the employment of the additional force necessary. Landholders, though not in person resident in the area affected, will unless exempted also be liable to contribute. It is proposed by section 5 that in some cases, where an additional police-force is not imposed, those who would be liable for its maintenance should pay compensation to persons injured.

6. In section 6 is embodied a recommendation submitted by the Government of Bengal that a police-officer who fails to return to duty after leave should be subjected to the penal provisions of section 29 of the Police Act, which apply to an officer who withdraws from his duties without permission or without giving previous notice for the period of two months.

7. Section 32, Act V of 1861, renders liable to fine any person who violates the conditions of a license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music or for the conduct of assemblies and processions: but the provision empowering these officers to grant the license is not distinct. Section 7 of the Bill will expressly authorize the superior police-officers, in the case of any assembly or procession which requires control, to issue a license specifying the conditions on which it may take place. Section 8 will empower any Magistrate or police-officer not below the rank of Inspector to call on any procession or assembly to disperse which violates the conditions of a license granted as above.

8. The general provisions of the Code of Criminal Procedure and the Indian Penal Code, in respect to the levy of fines, being sufficient to meet the case of penalties and fines imposed under the Police Act on conviction before a Magistrate, are substituted by section 9 of the Bill for the sections relating to distress in the Act of 1861, which are now not wholly appropriate for the purpose in view.

The 18th October 1894.

(Signed) A. P. MACDONNELL.

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