REPORT
OF THE
GOVERNMENT OF INDIA
OF THE
COMMITTEE APPOINTED
TO EXAMINE REPRESSIVE LAWS

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A Resolution was moved on the 14th February 1921 in the Council of State by the Hon'ble (now the Right Hon'ble) Mr. Srinivasa Sastri to the effect that a Committee be appointed by the Governor General in Council to examine the repressive laws on the Statute-book, and to report whether all or any of them should be repealed or amended. This Resolution was carried, and in accordance with the instructions contained in Resolution no. 533-Political, dated March 21st, 1921, we have examined the following Regulations and Acts :—

(1) The Bengal State Offences Regulation, 1804,

(2) Madras Regulation VII of 1808 ;

(3) Bengal State Prisoners Regulation, 1818 ;

(4) Madras Regulation II of 1819 ;

(5) Bombay Regulation XXV of 1827 ;

(6) The State Prisoners Act, 1850 ;

(7) The State Offences Act, 1857 ;

(8) The Forfeiture Act, 1857 ;

(9) The State Prisoners Act, 1858 ;

(10) The Indian Criminal Law Amendment Act, 1908 ;

(11) The Prevention of Seditious Meetings Act, 1911 ;

(12) The Defence of India (Criminal Law Amendment) Act, 1915 ;

(13) The Anarchical and Revolutionary Crimes Act, 1919.

2. Appendix A to this report gives the names of the witnesses who were invited to give evidence. We examined at considerable length 20 witnesses, some of whom came from distant provinces at much personal inconvenience. We desire to record our appreciation of their public spirit. We have also considered the opinions of local Governments and some written statements sent by witnesses or by recognised associations. In addition we perused a large amount of documentary evidence in the shape of reports of disturbances, confidential reports on the political situation, speeches delivered at public meetings, debates in the Legislative Council when the Acts under consideration were introduced, and correspondence with local Governments regarding the exercise of powers under these Acts, and the proceedings of the previous Committees, including the Sedition Committee.

3. The reports from local Governments shew that recourse was had to these 'repressive' or 'preventive' enactments only in cases of emergency, or to deal with exceptional disorder for which the ordinary law did not provide any adequate remedy. It is also proved that the Government of India have scrutinized with the greatest care all requests for either the introduction of the Seditious Meetings Act or action under the Defence of India Act or the Indian Criminal Law Amendment Act, 1908. During the war the maintenace of internal peace was a supreme consideration and early preventive action was essential.

The first question then that we have to decide is whether with the conclusion of the war and the introduction of constitutional changes in the Government of India, there has been such an improvement in the general situation as to justify the repeal of all or any of these measures. We have particularly to consider whether there exists such an anarchical movement as prevailed in Bengal during the last decade, or any probability of recrudescence of a movement, which at that time seriously disturbed the tranquillity of certain parts of India. On this point plain speaking is unavoidable.

4. The evidence of many witnesses indicates that the constitutional reforms have produced a distinct change for the better in the attitude towards Government of the larger portion of the literate classes. As regards the illiterate masses, the position is much less satisfactory. It must be recognised that recent appeals to racial feeling, religious prejudice or economic discontent have in fact shaken respect for law, government and authority, and "created an atmosphere of preparedness for violence." Intimidation, social boycott and the establishment of courts, the jurisdiction of which is in some cases enforced by violence and insult, are among the methods employed to create a situation full of dangerous potentialities. Similarly, while many witnesses expressed the view that the general position had improved and that the cult of non-co-operation had generally failed to appeal to more thoughtful persons, we are forced to the conclusion that the leaders of this movement have succeded in arousing a deep and widespread feeling of hostility towards Government. It is, however, as yet more marked in urban than in rural areas. The large number of serious riots during the past seven months* cannot be regarded merely as passing ebullitions of temporary discontent. The disturbances in places so widely apart as Rae Bareli, Malegaon, Nagpur, Giridih, Dharwar, Aligarh and Matihari indicate a growing contempt for law and order. We have no doubt that economic and agrarian discontent has been exploited by agitators, and that these riots have in many cases disclosed a disregard of authority or an attempt to intimidate the courts or officers carrying out the orders of the courts, which justifies us in ascribing them to an active and malicious propaganda. In attempting any survey of the present political situation we cannot leave out of account further dangerous developments adumbrated by leaders of the non-co-operation party. To illustrate this point we cite some extracts from recent speeches.

(1) "Mahatma Gandhi says that if you are determined *Swaraj* can be attained within one year. The machinery of the Government is entirely in your hands. * * * * . At first we will request the military and the police to throw up their services with the Government. If this request is rejected the public will be asked to refuse to pay taxes and then you will see how the machinery will work. We do not recognise the authorities of the present Government and refusal to pay taxes will settle everything. This can only be achieved by unity. Now it rests with you whether you will sit under the *Satanic* flag or will come under the flag of God. The day will come when the sweepers, washermen and others will be asked to boycott those who are on the side of *Satan*."

(2) "I believe that the real struggle with Government will commence when we withhold payment of taxes. In that case Government will come to its senses. I require students these days. Some are required for (work among the) tenantry. When they will refuse to pay taxes and Government will issue warrants and send its sepoys, the peasants will boldly defy its order and will say "Kill us or put our property to auction, but we would not pay taxes with our hands."

(3) We may also quote an extract from an article in "Young India" by Mr. M. K. Gandhi:—

> "Civil Disobedience was on the lips of every one of the members of the All-India Congress Committee. Not having really ever tried it, every one appeared to be enamoured of it from a mistaken belief in it as a sovereign remedy for our present-day ills. I feel sure that it can be made such if we can produce the necessary atmosphere for it. For individuals there always is that atmosphere except when their Civil Disobedience is certain to lead to bloodshed. I discovered this exception during the *Satyagraha* days. But even so a call may come which one dare not neglect, cost it what it may. I can clearly see the time coming to me when I *must* refuse obedience to every single state-made law, *even though there may be a certainty of bloodshed* (our italics). When neglect of the call means a denial of God, Civil Disobedience becomes a peremptory duty."

Vide Appendix B.

(4) The following are Resolutions passed by the All-India Congress Committee of Bombay :—

(*i*) " The All-India Congress Committee advises that all persons belonging to the Congress shall discard the use of foreign cloth as from 1st day of August next and advises all Congress organizations * * * * to collect foreign cloth from consumers for destruction or use outside India at their option."

(*ii*) " It is of opinion that Civil Disobedience should be postponed till after the completion of the programme referred to in the Resolution on *Swadeshi* after which the Committee will not hesitate, if necessary, to recommend a course of Civil Disobedience even though it might have to be adopted by a special Session of the Congress. Provided however it is open to any Province or place to adopt Civil Disobedience subject to the previous approval of the Working Committee obtained within the Constitution, through the Provincial Congress Committees concerned."

Witnesses unanimously agreed that Civil Disobedience particularly if it took the form of a " no-revenue " or " no-rent " campaign, would result in widespread disorder, and that a boycott, whether of foreign goods or of liquor, if accompanied by intimidation, might result in violence. The boycott of foreign cloth is apt to raise prices, and the consequent economic distress would end in " *hat* looting " such as has occurred in the past.

5. In the light of the evidence before us it is therefore impossible to describe the state of affairs to-day as normal. Nor is India singular in this respect : the reaction from the war is world wide and no country has escaped its effects. There are however grounds for hoping that an improvement has begun : there are signs of a gradual adjustment to *post bellum* conditions : a favourable monsoon would do much to remove economic discontent : the relations between Government officials and the public, between the Ministers and officers serving under them are admittedly undergoing successful re-adjustment : finally, the response made to the opportunities offered by the Reformed Councils, no less than the attitude of the Executive and the Legislators of mutual co-operation is encouraging. But as militating against this improvement, there is an active widespread campaign which, if judged by recent utterances, is certain to increase economic difficulties and to promote disaffection and violence.

6. We have carefully scrutinised the evidence dealing with the *Khilafat* movement. With its religious aspect the Committee is in no way concerned : indeed we fully sympathise with the desire for favourable peace terms for Turkey, but it is our duty to examine closely the activities of the extreme leaders of this movement and the methods by which they seek to attain their aims. We are informed that any real appreciation of the difficulties of the situation is confined to a small class, but it cannot be denied that the terms of the Turkish peace treaty have been used to cause a dangerously bitter feeling amongst the masses, and that religious enthusiasm exploited by unscrupulous agitators has in many places developed into fanatical hostility to the British Government. Thus, despite frequent and authoritative contradiction by the Government in the Legislative Assembly and outside, the lie that holy places have been desecrated is still repeated. We cite below extracts from reports of speeches submitted to us.

(1) At Karachi a Hindu ' Ecclesiastical ' supporter advised " sympathy with their Moslem brothers because the power that had caught hold of the Muslim holy places would not spare those of the Hindus."

(2) Or again, " The British had caused Hindu and Muhammadan brothers to fight and have thus made straight their own road. They had destroyed Mecca and Medina. Shots had even fallen on the Prophet's remains. All Muhammadans who had fought against the Turks should be divorced."

(3) " Referring to the fight in Mecca he said that the *Sharif* was the master of the place. There were only 30 or 35 Turkish soldiers. When the British Army reached Mecca they killed 3 of the Turkish soldiers who were found marketing. Two others, who took shelter in the *Kaaba* (the holy temple) were not a tiger nor even a fly was allowed to be killed according to religion, were

slaughtered by the British soldiers. Moreover the holy carpet of the *Kaaba* which was prepared by the hands of the innocent little girls was burnt by the fire of the British shells."

(4) The following extract refers to the Kheri murder case :—

"I am going to pronounce the order of God that if the slayer of a heathen is killed, he will certainly become a martyr. If he dies it is your duty to pray for him.

"One Englishman has died here ; lakhs of Hindus and Mussalmans have been martyred there—

"If after lakhs of Mussalmans have been martyred in Smyrna, somebody has killed Christians, Christians have retaliated entering Constantinople. If he has committed the murder for the sake of religion and he is slain he will attain martyrdom. Heavens await him and the *houries* are standing (to welcome him) with cups in their hands."

7. It was, we were told by a frontier officer, statements of this kind, particularly relating to the defilement of holy places, which has created such bitterness and led to the Hijrat from Upper Sind and Peshawar with such disastrous consequences. Instances of gross misrepresentation are numerous. Nor does it end here. Perhaps the most sinister feature in this campaign of calumny is the direct attempt to seduce the Military and the police force from their allegiance. Evidence has been adduced of many specific instances of such attempts, which the military authorities regard as most mischievous. Speeches have also been reported :—

(1) "Tell every Muhammadan clearly that it is his religious duty to avoid being recruited for the army. Do not give a single soldier that he may behead his brother with his own hands."

(2) "Your religion is calling for help, but you do not lay down your life for God ; you join the army or police on fourteen rupees a month. You say you are a Government servant ; but you are God's servant."

8. We have also had placed before us reports of many speeches made by various leaders of the movement which can only be considered as direct incitements to disloyalty and internal disorder, as well as an encouragement to foreign invasion. The following are instances :—

(1) "If the Amir of Kabul does not enslave India and does not want to subjugate the people of India who have never done any harm and who do not mean to do the slighest harm to the people of Afghanistan or elsewhere, but if he comes to fight against those who have always had an eye on his country, who wanted to subjugate his people, who hold the Holy Places of Islam, who want to crush Islam in their hostile grip, who want to destroy the Muslim faith and who were bent on destroying the *Khilafat*, then not only shall we not assist, but it will be our duty and the duty of every one who calls himself a Mussalman to gird up his loins and fight the good fight of Islam."

(2) "When we have to kill all Englishmen we will not come stealthily, we will, that very day, declare openly that there is (war with) the sword between you and us now and it will be sheathed only when either your neck disappears or ours."

(3) "The object of my speaking so plainly is to assure you that in the question of *Khilafat* we have not gone an inch against the doctrines of Islam. In my religion, to die and to kill in the cause of God are both good deeds."

(4) "He told his audience that their time had at last come. Everything was ready for *jehad* and the signal was about to be given. He exhorted them to be bold and steadfast. The weapons of the British soldiers and sepoys could not harm them for he had the power to render them innocuous. This time there was little talk of non-co-operation. The business for the moment was war."

(5) "If you do not come forward, God shall raise another nation for Islam's defence. Those who wage the war of *jehad* will not mind any remonstrances. * * * * * *Swaraj* is a religious obligation with me. I am doing my work for the sake of the holy *Kaaba*, Medina and the Qoran. It is better to be slaves of Muhammadans than of the English. It is our duty to help the Amir if he comes to carry on *jehad*. I am prepared to fight the battle of Independence whether my Muhammadan brothers help me or not."

(6) "In the next Congress in December, which is to be held at Ahmedabad the Indian Musalmans will ask the Congress to tear up their old creed, which is twelve months old, and take India out of the British Empire and hoist a tri-coloured flag of Indian independence with a spinning wheel in the centre and declare India a republic. This is our reply. This is our ultimatum. You have not given an ultimatum to the Turks, but we give an ultimatum to you. There peace between you and us for three months more. After three months there will be conflict. After conflict there will be peace. And the peace will be that you will go out of India. You wanted to turn out the Turks bag and baggage, but we will make you leave the bags and bagage here as it is ours."

Such quotations could be multiplied. After a careful perusal of these and other similar utterances, we have no hesitation in holding that this form of propaganda is directly calculated, when addressed to an impressionable and excitable audience to lead to violence.

9. We endeavoured to ascertain the effect of this combined movement (the Non-co-operation and the Khilafat) on the student community, and have received valuable evidence from educational authorities. The situation was at one time disquieting. Direct appeals were issued of which we give one example by a prominent leader of the Khilafat movement :—

"Those who read the newspapers know the part taken by the students in all countries in these days. The first example was set by the students of Russia at the time of revolution. They took great part therein and you know the result. In China also the students agitated and the courses of the universities were changed according to their wishes. Look at the condition of Egypt and the work done there by the students ? They have obtained the religious form of instruction. They have agitated for years and in the long run they have been successful in their revolution. Both boys and girls took share in the revolution. Our only hope of spreading agitation is by means of the students who are always enthusiastic."

Our general impression is that the student community at large has not been permanently or seriously affected by such mischievous appeals, save in the way of sentimental sympathy for the non-co-operation movement and the personality of its leader. The 'national' institutions have obtained meagre support whether in the shape of funds or pupils. Several have now been closed. There was at first some response in the form of strikes, but the large majority of students returned. The result of the University Examinations, and the number of entries shew that there has been no appreciable falling off in the number of admissions or of candidates. It is noticeable that the effects varied in different institutions, which we attribute to the influence or lack of influence of the Principal and Professors. We are however convinced that as in the case of the public generally, so with the students there is less respect for authority than there was before. Nor can we overlook the fact that there is a small residue of misguided boys who, by forsaking their studies, have not only imperilled their future career but would seem to have elected that of the professional agitator. We have dwelt upon this aspect of the situation in view of the unhappy activities of certain members of the student community of Bengal ten years ago.

10. Taking into consideration all the evidence we have received, and the points to which we have adverted, and bearing in mind the still prevailing economic discontent, we cannot dismiss as improbable the danger of sudden sectarian, agrarian or labour disorder on a large scale culminating in riots.*

11. We may now in the light of this appreciation of the present political position examine the question of repealing or retaining the various Acts under consideration. Dealing with the older Acts first, we notice that they relate generally to a state of affairs which no longer exists. We regard it as undesirable that they should be used for any purpose not contemplated by their authors. The objections to them are obvious. Some, as for example, Bengal Regulation 10 of 1804, or the Forfeiture Act of 1857, are inconsistent with modern ideas; others are clothed in somewhat archaic language and are applicable only to circumstances which are unlikely to recur. Many arm the Executive with special powers which are not subject to revision by any judicial tribunal. Their presence on the Statute-book is regarded as an offience by enlightened public opinion. The arguments for their retention are as follows. The use of the Bengal State Prisoners Regulation, 1818 (Regulation III of 1818) in Bengal was necessitated by the revolutionary movement which the ordinary law failed to check. The wholesale intimidation of witnesses rendered recourse to the ordinary courts ineffective. Though we have evidence of a change in the attitude of individual leaders of the anarchical movement in Bengal, we are warned that similar symptoms of intimidation have been noticed, and that, should there be a recrudescence of any revolutionary movement, it would, in the absence of these old preventive Regulations, be impossible to cope with the situation, and fresh emergency legislation would be necessary. Lastly, the plea is advanced that these old Acts may be regarded as measures intermediate between the ordinary law of the land and martial law, the ultimate result in case of extreme disorder. The abolition of these special laws, it is suggested, may mean earlier recourse to martial law than might otherwise be the case.

12. We recognise the force of these arguments, in particular the difficulty of securing evidence or of preventing the intimidation of witnesses. We also appreciate the fact that the use of the ordinary law may in some cases advertise the very evil which the trial is designed to punish. But we consider that in the modern conditions of India that risk must be run. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislatures. The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shewn, be greater even than the evil which such powers are directed to remedy. The retention of these Acts could in any case only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency, we advocate their immediate repeal. In the event of a recurrence of any such emergency we think that the Government must rely on the Legislature to arm them with the weapons necessary to cope with the situation.

13. Our recommendation in regard to Regulation of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from Foreign or protected States who are liable to become the instigators or focus of intrigues against such States: persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts: and persons tampering with the inflammable material on our frontiers. We are in fact satisfied of the continued necessity for providing for the original object of this Regulation, in so far as it was expressly declared to be "the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility,"

*NOTE.—After this report had been drafted we received information of the grave and wide spread disorders in Malabar, which, in our opinion, more than justify the apprehensions leading to this conclusion.

and only in so far as the inflammable frontier is concerned, from "internal commotion.".

We desire to make it clear that the restrictions which we contemplate in this connection are not of a penal or even irksome character. We are satisfied that they have not been so, in cases of the kind referred to above, in the past. Indeed in several instances they have been imposed as much in the interests of the persons concerned as in the interests of the State. The only desideratum is to remove such persons from places where they are potential sources of trouble. Within such limits as may be necessary to achieve this object they would ordinarily enjoy full personal liberty and a freedom from any kind of stigma such as would be associated with restrictions imposed by criminal law. We therefore recommend the amendment of Regulation III of 1818, limiting its application to the objects outlined above.

This reservation may also involve the retention in a modified form of the State Prisoners Acts of 1850 and 1858, but this is a matter for legal experts. We have carefully considered the cases in which the Madras State Prisoners Regulation of 1819 has been used. The procedure adopted was certainly simpler and more effective, but if the ordinary law is insufficient, we think it is for the Local Government to consider whether any amendment of the Moplah Outrages Act XX of 1859 is needed.

14. Turning now to the more modern Acts, we notice that the Defence of India (Criminal Law Amendment) Act, 1915, will in the ordinary course of events shortly expire. It is, we understand, at present only used in order to give effect to the Government of India's policy in the matter of colonial emigration. Section 16-B of the Defence of India (Consolidated) Rules, 1915, is at present employed to prevent the departure from India of unskilled labour, which does not come within the definition of 'emigration' given in Act XVII of 1908. We understand that a Bill to meet the case of Indian emigrants has already been introduced.

A special regulation may, we think, also be needed for the exclusion of persons whose presence may endanger the peace and safety of the North West Frontier Province. We recommend that the Defence of India Act be repealed at once, as it was only intended to cope with difficulties arising from the war.

15. The Anarchical and Revolutionary Crimes Act, 1919, (popularly known as the "Rowlatt Act"), has never been used. Its enactment was extremely unpopular; it was to continue in force only for three years from the termination of the war. We consider that the retention of this Act is not necessary or advisable. The power to restrain personal liberty without trial conferred by this Act is not consistent with the policy inaugurated with the recent constitutional changes, and we therefore recommend its immediate repeal. It is however necessary to strike a note of warning. While we think that there has since 1918 been some improvement in the situation so far as the anarchical movement is concerned, we realize that strong measures may be needed for the suppression of any organized attempt at widespread disorder. We prefer, however, to leave this contingency to be dealt with when and if it arises, rather than retain a statute which is regarded as a stigma on the good name of India.

16. There remain then two Acts, the Indian Criminal Law Amendment Act, 1908, and the Prevention of Seditious Meetings Act, 1911. It is around those two Acts that controversy has centred and regarding which we have been careful to obtain a full expression of opinion. These Acts also differ from those to which we have already referred in that, while the Committee was sitting, they were actually being used in the Punjab, Delhi and the United Provinces. The evidence of some of the witnesses goes to show, that their effect was beneficial and that their application was necessary to maintain public tranquillity. It is affirmed that local officers responsible for the maintenance of peace and order would, under existing conditions if these Acts were repealed, find themselves in an impossible situation faced, it might be, with disorder on a large scale which they could not prevent. The application of these Acts moreover is subject to safeguards which ensure that sanction to their introduction is only granted after careful

scrutiny of the necessity for such action. The Local Governments are unanimous in asking for the retention of the Seditious Meetings Act. Most of the Local Governments similarly affirm the need for retaining Part II of the Criminal Law Amendment Act, 1908. It is desirable therefore to examine most carefully the reasons for and against their repeal.

17. These Acts are first attacked as being "unconstitutional", and, like the Act of 1919, inconsistent with the present policy of Government. In support of this view our attention has been directed to the law that obtains in England with regard to public meetings. The following dictum of Professor Dicey is quoted: "The Government has little or no power of preventing meetings which to all appearance are lawful even though they may in fact turn out when actually convened to be unlawful because of the mode in which they are conducted." We would point out that the learned Professor is merely stating what are actually the principles underlying the law in England. He does not attempt to discuss their propriety, nor, we may add, their applicability to other countries. He does however allude to "the policy or the impolicy of denying to the highest authority in the State the very widest power to take in their discretion precautionary measures against the evils which may flow from the injudicious exercise of legal right." The learned author also points out that the right of public meeting is "certainly a *singular* instance of the way in which adherence to the principle that the proper function of the State is the punishment, not the prevention, of crimes, deprives the Executives of discretionary authority." Apart from the great difference in the class of audience which may be addressed, we recognise that while democracy and all the rights that it entails have been the result of gradual growth through the course of centuries in Great Britain, they are a recent introduction into India.

18. The next argument advanced for the repeal of these Acts is that they offend public sentiment and that their retention would be a direct incitement to further agitation. This argument is one to which we attach great weight, even though we recognise that the repeal of these Acts would only appeal to a few. We realise that the wholesale repeal of these Acts would do much to strengthen those who are anxious to assist Government and would be useful for the purposes of counter propaganda. We realise also that substantial support is necessary for Government to meet the non-co-operation movement, which is the greatest obstacle to the successful development of the reforms recently introduced and to all political and industrial progress.

19. The real point, however, at issue is whether the ordinary law that would remain would provide sufficient means for coping with any existing or reasonably apprehended disorder. Evidence has been adduced to show that in certain places the ordinary law is inadequate and this evidence we are not prepared to reject.

This brings us to the third objection that the ordinary law alone should be applied to prevent the evil with which these two Acts are designed to cope. We have had long discussions as to the manner in which Section 144 of the Criminal Procedure Code has been recently applied. It is no part of our duty to express an opinion on any individual case in which this Section has been used or to enter into any legal argument. In the opinion of those best qualified to judge this Section cannot be used effectively when there is danger of widespread disorder. We also note the argument that Section 144 of the Criminal Procedure Code was not designed to prevent meetings over a large area, and that its use for such a purpose arouses probably as much resentment as the application of the Seditious Meetings Act. It is the only preventive section in the ordinary law. Section 108-A of the Criminal Procedure Code is only partially preventive. Sections 120-A and B, 124-A, and 153-A of the Indian Penal Code are punitive. Further, even if satisfactory evidence is available, these sections can be used only against individuals and not to prevent seditious meetings or speeches. We consider it probable that if in those areas to which the Seditious Meetings Act has recently been applied, no preventive action, other than that possible under Section 144 of the Criminal Procedure Code, had been taken, the dangers of disorder would have been appreciably increased, and the number of prosecutions under these punitive sections would have been larger, which might have had the effect

of exasperating public opinion. We would point out that in some cases referred to in Appendix B, the riot was directly connected with such a prosecution.

20. A fourth argument is based on the recent findings of the Committee appointed to examine the Press Act. It is unnecessary for our purpose to discuss whether the written or the spoken word commands the greater circulation. We agree with that Committee that "the more direct and violent forms of sedition are now disseminated more from the platform and through the agency of itinerary propagandists than by the Press." The prosecution of a paper is moreover much simpler than the prosecution of a speaker, attended as the latter is by the difficulties of obtaining an accurate report of the speech delivered. We think that the instances we have given above are sufficient illustration of the danger of allowing violent and inflammable speeches. Though the speaker can be prosecuted, the mischief may have been done. Of this there have been lamentable illustrations.

21. Fifthly, it is argued that the Seditious Meetings Act of 1911 not only stifles noxious speeches at public meetings but also deters peple who might assist in counter propaganda. Cases have been quoted of persons otherwise well disposed to Government who declined "to ask for leave to hold a meeting or make a speech." We recognise that this is a necessary and undesirable result of the application of the Seditious Meetings Act. It is, however, a lesser evil than allowing speeches to be made which result in such disorder as would equally prevent any exponent of opposite views from obtaining a hearing. Such intimidation is, we learn, by no means uncommon.

22. In this connection, since we regard it as important that every opportunity should be given to the electorate of hearing both sides of a question, we recommend, before the next general election, the introduction of a Bill on the lines of the Disorderly Public Meetings Act, of 1906 (8, Edward VII), which makes a disturbance at a public meeting an offence, and provides a heavier penalty when this offence is committed during a Parliamentary election. We would also suggest that should such a Bill be presented, it should include a clause making it incumbent in the promoters of any meeting to provide adequate facilities and security for such reporters as the District Magistrate may wish to depute. We recommend that, when the Seditious Meetings Act is repealed, the District Magistrate should be empowered, by law, with the consent of the Local Government, to demand in any area of his district, notified in this behalf, that notice be given to him of the intention to hold a public meeting so that he may be able to make proper arrangements for obtaining a report of the proceedings. This, we may observe, is entirely different from demanding that a person should obtain leave to hold a meeting.

23. Finally, it is pointed out that, in the last resort, should the ordinary law prove insufficient, recourse can be had to legislation by Ordinance. We would deprecate any suggestion that the exercise of the extraordinary powers of the Governor General should be regarded as an appropriate method of legislation save in abnormal circumstances. These powers should, we think, be reserved for exceptional or sudden emergencies. To regard them as in any way the normal method of legislation implies a distrust of the Legislative Assembly and Council of State to which we would be sorry to subscribe. In fact, the most potent argument advanced in favour of the repeal of these two Acts is that such repeal would be an illuminating object lesson in the value of constitutional reforms. "Trust your Legislatures," we are told, "confidence will beget confidence. If you need exceptional powers, prove your necessity and the Legislatures will grant them." We accept this principle. We have adopted it to the utmost limit consistent with safety in advising the repeal of the enactments to which reference has been made. But we feel that we should not, under present conditions, be justified in advising the immediate repeal of these two Acts. We may also point out that their provisions are not of a drastic character. In this connection we may quote from the speech of the late Hon'ble Mr. Gokhale on the Seditious Meetings Bill: "I will freely admit that from the standpoint of Government it could not have introduced a milder measure than this. The more objectionable

features of the Act of 1907 have been removed, and if, when the need arises, the law is applied with reasonable care and caution, it is not likely to produce any serious hardship.....If the need of the Government is urgent and immediate, then of course all ordinary considerations must be put aside, and every loyal citizen must range himself on the side of the Government in sanctioning and enforcing the measures that are thought to be indispensable. In a state of actual disturbance, in a state of dangerous activity on the part of elements hostile to the very existence of the Government, I can understand the Government calling on all loyal citizens to rally round it in this manner". Though seldom applied, these two enactments have recently in the present situation been found necessary for the preservation of law and order. Further, an obvious objection to a more complete acceptance of this principle is that in allowing proof of the necessity for legislation to accumulate, even stronger measures than those now under consideration might eventually be required for the suppression of disorder. By the time public opinion had become sufficiently alarmed to demand or approve legislative action, the damage might be irretrievable.

24. As regards the Indian Criminal Law Amendment Act, 1908, it has been suggested that sections of the Indian Penal Code are sufficient to cope with any situation that is now likely to arise. It is generally accepted that Part I of this Act has failed to achieve in Bengal the purpose for which it was designed. As regards Part II, the conspiracy sections of the Indian Penal Code might meet the case, if, but only if, evidence were forthcoming. It was in no small measure the impossibility of obtaining evidence owing to the intimidation of witnesses that led to this enactment. As we have already seen, there is definite evidence of certain organisations encouraging acts of violence or resorting to intimidation. Recently in Delhi it has been necessary to declare certain Associations of Volunteers unlawful under Section 16 of this Act. We have carefully examined the circumstances which led to this action. The Volunteer movement began with "social service", but the adherents soon develope a definite tendency to interfere with the duties of the Police and the liberty of the public. They then began to intimidate and terrorise the general body of the population. There was a tendency towards hooliganism. It has been proved that some of these Associations resorted to violence, that their behaviour at Railway Stations and public meetings was objectionable and rowdy, that they obstructed the funeral of an honoured citizen and held a most undesirable demonstration at the house of another. They actively interfered with the elections by threats and picketing. There was every reason to believe that their activities, if left unchecked, would lead to serious disorder. The conclusion we have arrived at is that some of these Volunteer Associations in Delhi were seditious organisations, formed for the purpose of intimidating loyal citizens, and interfering illegally with the administration of the province. The result of the action taken by Government has been, we were told to "destroy the worst features of volunteer activity in so far as it was synonymous with rowdyism in the city of Delhi." We have received information of a possible recrudescence of secret associations in another part of India. It has also been stated in evidence that Bolshevik emissaries have entered India and we cannot overlook the possibility of illegal associations promoted by them terrorising the population, and engaging in a campaign of crime and terrorism. Actually Part II of this Act has been sparingly used. Its object is not only to break down existing unlawful associations, but to deter young and comparatively guiltless persons from joining these bodies and to discourage the supply of pecuniary assistance. We regret that we cannot at this juncture recommend the immediate repeal of Part II of this Act. There are two evident indications that its application might be necessary to prevent the formation of secret societies. It must be remembered that there is no legislation in India "for the prohibition of drilling and military training without lawful authority" on the lines of the English statute (60 Geo. III). Nor can we for the reasons already given advise the immediate repeal of the Seditious Meetings Act of 1911. We were informed that the result of the application of the Act in each case has been that sober-minded people approved the action taken by Government, and that the application of the Act was of the greatest value in preserving public tranquillity.

25. Our recommendation follows that made by the Bihar and Orissa Government: "Subject, however, to the reservations temporarily made

in favour of the Seditious Meetings Act and Part II of the Criminal Law Amendment Act, which cannot be abandoned until the present tension created by the non-co-operation movement has been relieved by the action of its leading promoters, His Excellency in Council desires again to emphasise the importance of removing from the Statute Book as far as possible all special laws of this character, so that the Government of India under the reformed constitution may proceed with a clean slate. At the same time, however, His Excellency in Council is conscious that in the future the need for special powers may again arise."

In view of the grave situation which exists and which may become more serious, we also think that it would be prudent to defer actual repeal of these Acts until such time as the situation improves. Many of us hope that it may be possible for the Government to undertake the necessary legislation during the Delhi session. We can make no definite recommendation on this point at present. We trust that the repeal of these Acts may be expedited by a healthy change in the political situation. The duration of retention rests in other hands than ours.

26. To this endeavour to adjust the conflicting claims of political considerations and administrative necessity we have applied the principles on which the Constitutional Reforms are based. The problem before us is, we consider, a test case of the " co-operation received from those upon whom new opportunities of service will thus be conferred and the extent to which it is found that confidence can be reposed in their sense of responsibility." We recognise our responsibility in the maintenance of peace and order. We are prepared to trust both the Provincial Councils and the Imperial Legislatures for such support as may be necessary. We believe that the Executive will use any exceptional powers with the utmost caution and restraint. Their action may always be challenged in the local legislatures. Lastly, we desire also to take into account the difficulties which at the present time confront local officers. Evidence before us shows that the Magistrates and the Police have on many occasions been sorely tried, and we wish to record our appreciation of their loyalty in very difficult positions. Animated by these ideas, we therefore recommend the repeal of all the Statutes included in the terms of reference to this Committee, with a reservation as to Bengal Regulation III of 1818 and the corresponding Regulations of the Madras and Bombay Presidencies, but we advise that the repeal of the Prevention of Seditious Meetings Act, 1911, and Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present. Their retention is necessary in view of recent occurrences and possible developments, which we cannot but regard with the gravest apprehension.

TEJ BAHADUR SAPRU, *Chairman.*

W. H. VINCENT,
P. S. SIVASWAMY AIYER,
J. CHAUDHURI,
E. L. L. HAMMOND,
G. M. BHURGRI,
N. M. SAMARTH,
H. S. GOUR,
SHAHAB-UD-DIN.

Members.

Dated the 2nd September 1921.

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