

CHAPTER XVII.

LATER PREVENTIVE MEASURES.

IN the year 1878 the Indian Press again engaged the attention of the Government, and this time in a somewhat more prominent manner. The circumstances which led to the passing of what is known as the Vernacular Press Act are very fully set forth in the speech of the Hon'ble Member who introduced the Bill.

Sir Alexander Arbuthnot in moving its introduction explained the "considerations which influenced the Government in bringing forward this measure" as follows:—"The object of the Bill," he said, "is to place the native newspapers, or, to speak more correctly, the newspapers which are published in the vernacular languages of India, under better control, and to furnish the Government with more effective means than are provided by the existing law, of repressing seditious writings which are calculated to produce disaffection towards the Government in the minds of the ignorant and unenlightened masses. Another object is to check a system of extortion to which some of our native feudatories, and many of our native employés are exposed by the rapacity of unscrupulous native editors."

"This measure," he added, "has not been resolved on without much reluctance, for, directed as it is against a particular class, it involves a description of legislation which is opposed to the traditions and repugnant to the principles upon which the administration of British India has been conducted during a long series of years, and which would not have been resorted to except for very cogent reasons. It is only because, in the opinion of the Government of India, the evil against which this measure is directed is one of great and increasing magnitude; because it is calculated to lower the *prestige* of the Government, and to weaken its hold on the esteem and affections of its subjects; and because the existing law does not furnish any adequate means of dealing with it, that the Govern-

ment have decided to have recourse to special measures for its repression."

"When the Press of India," he continued, "was liberated by the Government of Sir Charles Metcalfe from the restrictions which had previously been imposed upon it, and when it was placed in a position of freedom from State interference, which, with the exception of one brief interval of a single year, it has occupied since 1835, the native Press was a thing of comparatively little importance. In one of the minutes written at that time Mr. Macaulay states that the papers printed in the languages of India were few, and exercised very little influence over the native mind. The entire circulation of native newspapers throughout the country did not then exceed three hundred copies. Since those days a great change has taken place. Newspapers printed in the vernacular languages are published in most of the large towns in Bengal, Bombay, the North-Western Provinces and the Punjab, are read and studied by considerable numbers of people, and exert an influence over the popular mind which it is difficult to exaggerate. It is not my wish to include the whole of the native press in the charge which I am about to prefer against individual members of it. I know that that Press includes many respectable papers which are doing useful work, and which are entitled to every encouragement that the State can afford to them. It is not against this class of newspapers that the present measure is directed. But there is a large and increasing class of native newspapers which would seem to exist only for the sake of spreading seditious principles, of bringing the Government and its European officers into contempt, and of exciting antagonism between the governing race and the people of the country. This description of writing is not of very recent growth, but there has been a marked increase in it of late, and especially during the last three or four years. During the past twelve months it has been worse than ever, the writers gaining in boldness as they find that their writings are allowed to pass unpunished. Their principal topics are the injustice and tyranny of the British Government, its utter want of consideration towards its native subjects, and the insolence and pride of Englishmen in India, both official and non-official. There is

no crime, however heinous, and no meanness however vile, which according to these writers is not habitually practised by their English rulers."

The Hon'ble Member then proceeded to illustrate his argument with examples, and continued:—"The extracts which I have read, are specimens, extracted haphazard from a great number, of the manner in which the British Government and the English race are habitually aspersed and held up to the contempt and hatred of the people of India. Of late, however, a further step has been taken, and a beginning has been made in the direction of inciting the people to upset the British Ráj by denunciations, sometimes open and sometimes covert, of the alleged weakness and timidity of the English, and their inability to maintain their present position in India."

"It cannot be said," he went on to add, "that the state of things which has arisen has taken the Government altogether by surprise. That such a state of things would be one of the results of granting complete freedom to the Press in this country was predicted many years ago by men whose honoured names have long been household words in Anglo-Indian history. I doubt not that many of the members of this Council are acquainted with the remarkable minute which Sir Thomas Munro, one of the ablest of the many able statesmen who have aided in consolidating British rule in India, recorded on this subject in 1822. I well remember the interest with which this minute was reperused at the time of the Mutiny, and how impossible it was not to be struck by the almost prophetic character of the utterances which it contained. I do not rest my argument on the policy of restriction advocated by Sir Thomas Munro; I rest it upon the opinions of men who were parties to the policy of liberation which was carried out in 1835, and who, it is evident from their writings, did not overlook the possibility that such a state of things might arise as that with which the Government of India are now called upon to deal. Both Sir Charles Metcalfe and Mr. Macaulay, the one the originator and the other the draughtsman and eloquent defender of the Act of 1835, while arguing strongly in favour of a free Press, advert to the possibility of circumstances

arising which might compel the Government of the day to resort again to legislation of a restrictive character."

"The existing law," he added, "is inadequate for the suppression of the evil which this Bill is intended to remedy. The existing law is contained in an Act of 1867, which provides for the registration of printing presses and newspapers, and in a section of the Indian Penal Code which makes seditious words or writings punishable. Now this section of the Penal Code really furnishes a very inadequate means of dealing with such writings as those with which this Bill is intended to deal. In the first place, the explanation which has been added to the section renders the penalties inapplicable to any case in which there is not an obvious intention on the part of the writer to counsel resistance to, or subversion of the lawful authority of the Government. Therefore to much of the writing to which I have drawn the attention of the Council this law would not apply, for there is a great deal of it, which, though very mischievous in its effects, cannot be said to come under the category of counselling resistance to lawful authority or subversion of that authority. It will perhaps be said that if so, the proper course is to amend the Penal Code, and to provide therein suitable penalties for those who, without advising rebellion, inflame the minds of the people against their rulers. I am sure that the Council will not for a moment suppose that this very natural question has not been deliberately considered by the Government, but after the most careful reflection, and consultation with our Law Officers and with the Local Governments, the conclusion which we have arrived at is that no such amendment as could be made in a Penal Code, which is necessarily of general application, would adequately and properly meet the peculiar requirements of the present case."

It will be remembered that previous to the legislation of 1898 the Government were confronted with the same difficulty (see *Ch. vii*). On that occasion the alternative of amending the Penal Code was adopted in preference to a reversion to preventive legislation.

"It would of course be possible," the Hon'ble Member continued, "to introduce into the Penal Code a provision rendering penal all writings calculated to inflame the minds of

the people against their rulers, irrespective of the intention of the writers, but such a provision must be of general application, and, like the rest of the Penal Code, it must be essentially punitive. The principle of the Bill which I desire to lay before the Council is a different principle. The provisions of the Bill will apply only to one class of writers, namely, the writers in the vernacular Press, and the measure is not so much a measure of penal, as it is a measure of preventive legislation. The machinery by which it will work is a machinery of checks, rather than of penalties. Its object is to check mischievous writings of the nature of those to which I have alluded, not by penal sentences, but by requiring the offenders, or those in regard to whom it may be apprehended that they are likely to offend, to engage and deposit security for their good behaviour, or by merely warning them; and it is only in the event of the engagements being broken, or the warnings being disregarded, that the penalties which the Bill provides will be put in force. What is needed is a procedure more summary, and framed rather with a view to prevention than with a view to punishment.’

In conclusion he said:—‘In restricting the operation of this measure to the vernacular Press, and in exempting the English Press from its operation, the Government of India are taking a course which involves a departure from the policy by which it is usually guided, and indeed from the policy which has been followed in all previous legislation regarding the Press in India. I will not pretend to say that this part of the question is perfectly plain and simple, or that in advising the course which we have determined on after very careful consideration, we are not laying ourselves open, in some degree at all events, to the charge of class legislation, and of making what by many will be regarded as an invidious distinction. It would have been very easy, but I do not think that it would have been just, to make the application of the Bill general, and for the sake of not laying ourselves open to the charge of creating invidious distinctions to include the English Press in its operation. My answer is that nearly forty-three years have elapsed since the passing of Sir Charles Metcalfe’s Act, and nearly twenty-one years since the passing of the Press

law of 1857 ; that throughout that period the English Press has been, on the whole, a loyal and, notwithstanding many imperfections, a valuable instrument and aid to the Government ; while for many years past, and especially in recent years, a section of the vernacular Press has been chiefly remarkable for its disloyalty. Such publications as those to which I have alluded appeal to the ignorant and the unenlightened. They influence and pervert the minds of the young, and go far to counteract the benefits of the education which we are endeavouring to impart to them. They constitute, in fact, a mischievous and poisonous literature, embarrassing to the administration, subversive of authority, and in every way injurious to those to whom it is addressed. In framing this measure in its present form the Government of India has been influenced by a consideration of the facts with which it has to deal, and after carefully weighing those facts it has come to the conclusion that it would not be right to inflict upon the most important and the most valuable section of the Press a liability to checks and penalties which it has in no way merited."

"As Englishmen brought up in a free country and accustomed to the advantages of a free Press the members of the Government of India have no desire to place undue restrictions on the Press of India. In resolving on this measure, they are entirely influenced by their sense of the necessities of the case, and of the responsibility which devolves upon them for the maintenance of authority and order."

These are the main passages of a memorable speech which was delivered on a memorable occasion.

The Advocate-General of Bengal also supported the Bill in forcible terms, as follows :—“The privilege of writing and publishing with freedom is doubtless inestimable. So long as that privilege is exercised honestly and fairly, with a view to benefit society, and with reference to subjects of common and public interest, it will be cherished and maintained wherever free institutions exist and flourish. But the privilege itself is subject to this limitation, that it must not invade the undoubted rights of others. In the case of private individuals and classes, their character and reputation must be respected ; and in the case of a Government, its constitution must not

be wantonly attacked for purposes of injury and mischief, nor its good name maliciously aspersed. I have in my hand translations of upwards of one hundred and fifty extracts from papers published in the vernacular languages which I have read carefully, and that reading has satisfied me that these publications contain matter under the following heads,—(1) Seditious libels, malicious and calumnious attacks on the Government, accusing it of robbery, oppression, and dishonesty, and imputing to it bad faith, injustice and partiality; (2) libels on Government officers; (3) contemptuous observations on the administration of justice, pointing to its alleged impurity and worthlessness; (4) libels on the character of Europeans, attributing to them falsehood, deceit, cruelty, and heartlessness; (5) libels on Christians and Christian Governments, and mischievous tendencies to excite race and religious antipathies; (6) suggestions and insinuations which their authors believe fall short of seditious libels by reason of the absence of positive declarations.”

“ In addition to these general characteristics,” he continued, “ I find that mis-statements, exaggerations, and allegorical tales intended to sketch real incidents but based purely on imagination, have been introduced to support or give colour to the varied, and I might almost add inexhaustible, calumnies to be met with. Having attentively considered these extracts, I am irresistibly led to the conclusion that it is intended by these publications to disseminate disaffection, to excite evil prejudices, to stir up discontent, and to produce mischief of the gravest order, in short, to render the Government, its officers, and Europeans generally, hateful to the people. These are evil purposes which should be repressed with a strong hand, and their contrivers restrained from all further attempts to administer their subtle poison to the lower orders of the people, to saturate their minds with evil thoughts, and to arouse their evil passions.” This, it will be remembered, was the passage cited by Sir Griffith Evans in support of the Bill to amend the law of sedition in 1898 (see *Ch. vii*).

“ The evils to which I have adverted,” the [Hon’ble Member continued, “ are I fear too widespread to be checked or suppressed by prosecutions under the existing law, and,

even if it be assumed that prosecutions would be effective in repressing them, it must be admitted that much time would be lost in applying such remedy and realising its salutary results. As time is of the very essence of every remedy by prevention and restraint, I am entitled to assert that prosecutions for all practical purposes will be found unavailing. The Bill before us contains provisions which I think are well calculated to supply the desired remedy, and I maintain that the time has fairly arrived for action—further forbearance may be fraught with danger. It may be alleged that the provisions of the Bill are stringent, but I consider that the means to be used for the suppression and extinction of the evil courses to which the newspapers under notice have resorted should be as powerful and effective as if the Government were called upon to deal with a plague, a pestilence, or other grievous calamity. In the course of my professional career I have been a zealous and unflinching advocate of the freedom of the Press, and I have the satisfaction of believing that, in according my support to the present Bill, I am in no way departing from a firm adherence to the true principles which regulate that freedom. To protect and encourage journalism conducted with ordinary care and for honest purposes might be deemed a privilege. To curb by reasonable and necessary means the unbridled license of obnoxious and degraded publications, which seek to spread disaffection and dissatisfaction,—and which may be used by wicked and designing men to produce discontent amongst the poor and ignorant to their own detriment, and to denounce them fearlessly, should be considered by every right-thinking man and by every true citizen an imperative public duty.”

The Bill was likewise supported by the Hon'ble Mr. Evans who said :—“ I should always view with great jealousy any restraint upon personal liberty and freedom of speech which did not appear to be necessary for the safety or well-being of the community, but I give my unqualified assent to this Bill, stringent as its provisions are, for I think it necessary under the existing state of things. No person can claim to have any right to follow the trade or calling of spreading disaffection, or extorting money. An unceasing stream of false and malicious

charges is being daily poured out by the vernacular Press against the English Government and the English race. The poor and ignorant millions are told that all their misfortunes are due to England and the English, who cruelly and heartlessly oppress them, and the prospect of better days is held out to them if they could only be quit of their oppressors. Thus their minds are poisoned and their contentment destroyed, and they are left ready tools for plotters and conspirators. Believing that the evil is great and the necessity for its immediate abatement urgent, and that the remedy proposed is the right one, I have no hesitation in voting for the Bill.”

Sir Ashley Eden, the Lieutenant-Governor of Bengal, in like manner bore testimony to the gravity of the evil complained of. “The evil,” he said, “has long been felt by the Government of Bengal, and I believe by nearly all the other Local Governments. My predecessor, Sir G. Campbell, very strongly stated on several occasions his conviction that measures for controlling the vernacular Press were called for. What Government does object to is the sedition and gross disloyalty of some of the vernacular papers, and their attempts to sow the seeds of disaffection to the British rule in the minds of ignorant people. There have been laid before the Government extracts from the vernacular papers which establish the constant use of language of this description, and show that they habitually attack and misrepresent the Government under which they live in peace and prosperity, in terms intended to weaken the authority of Government, and with a reckless disregard of truth and fact which would not have been tolerated in any country in the world.”

Sir John Strachey testified to the condition of two other provinces in similar terms. “Not long ago,” he said, “I was Lieutenant-Governor of one of the great Provinces of India, and some years previously the Government of another Province was entrusted to me. The questions which are dealt with in this Bill have consequently been frequently brought home to me in a very practical shape. I have had to look on powerless at the mischief that has been going on, and have deplored the neglect with which it has been treated by the Government. I have known that this neglect has not been caused by

indifference, but by the natural disinclination, which happily all Englishmen feel, to do anything which shall have even the appearance of interfering with the liberty of the Press, and if I myself now thought that this Bill was really open to such a charge I should have been unable to give it my support. I deny that this measure will infringe that liberty. Liberty of the Press means liberty of discussion, liberty for the free expression of thought and opinion. But liberty does not mean unbridled license. It does not mean unlimited permission to let loose on the land a never-ending stream of abuse of all the institutions by aid of which society is held together; abuse of those things respect for which is indispensable for the preservation of the lives and property of every one; abuse of the Government, of the administration of justice, of the whole English race, and of all it does or desires to do."

"The honest journalist," he went on to add, "has nothing to fear from the present measure. He will be as free as he has ever been to give expression to his opinions, to discuss the action of the Government and its officers, to advocate those measures and doctrines of which he approves, and to censure those that he condemns. The limitations under which he may do this will in no respect differ from those that apply in England." The Hon'ble Member then cited the observations of Lord Fitzgerald on public journalism in Sullivan's case (see *Ch. ii*), and added:—"These are the principles by which the British Government desires to be guided in this country also."

His Excellency Lord Lytton, the President, summed up the case with consummate skill and judgment. He said:—"I cannot but regret the necessity which, by some irony of fate, has imposed upon me the duty of undertaking legislation for the purpose of putting restrictions on a portion of the Press in India. By association, by temperament, by conviction, I should naturally find my place on the side of those to whom the free utterance of thought and opinion is an inherited instinct and a national birthright. I should have rejoiced had it fallen to my lot to be able to enlarge, rather than restrict, the liberty of the Press in India, for neither the existence, nor the freedom of the Press in this country is of native origin

or growth. It is an exotic which especially claims and needs from the hands that planted it in a foreign soil and clime, protecting shelter and fostering care. It is one of the many peculiarly British institutions which British rule has bestowed upon a population to whom it was previously unknown, in the belief that it will eventually prove beneficial to the people of India, by gradually developing in their character those qualities which have rendered it beneficial to our own countrymen. For this reason the British rulers of India have always, and rightly, regarded with exceptional tolerance the occasional misuse of an instrument confided to unpractised hands. But all the more is it incumbent on the Government of India to take due care that the gift for which it is responsible shall not become a curse, instead of a blessing, a stone instead of bread, to its recipients. Under a deep sense of this great responsibility I say distinctly, and without hesitation, that, in my deliberate and sincere conviction, the present measure is imperatively called for by that supreme law—the safety of the State.”

“ We have endeavoured,” His Excellency continued, “ to base our rule in India on justice, uprightness, progressive enlightenment, and good government, as these are understood in England; and it is at least a plausible postulate, which at first sight appears to be a sound one, that so long as these are the characteristics of our rule we need fear no disaffection on the part of the masses. It must, however, be remembered that the problem undertaken by the British rulers of India is the application of the most refined principles of European government, and some of the most artificial institutions of European society to a vast oriental population, in whose history, habits, and traditions they have had no previous existence. Such phrases as ‘ Liberty of the Press’ and others, which in England have long been the mere catchwords of ideas common to the whole race, and deeply impressed upon its character by all the events of its history and all the most cherished recollections of its earlier life, are here in India, to the vast mass of our native subjects, the mysterious formulas of a foreign, and more or less uncongential system of administration, which is scarcely, if at all, intelligible to the greater number of those for whose benefit it is maintained. It is a fact which, when I first came to India,

was strongly impressed on my attention by one of India's wisest and most thoughtful administrators,—it is a fact which there is no disguising, and it is also one which cannot be too constantly or too anxiously recognised, that, by enforcing these principles and establishing these institutions, we have placed and must permanently maintain ourselves at the head of a gradual but gigantic revolution; the greatest and most momentous, social, moral and religious, as well as political revolution which perhaps the world has ever witnessed.”

“ Now if the public interpreters and critics of our action were only European journalists capable of understanding and criticising it from a European point of view, in reference to the known principles of European policy, and in accordance with the commonly accepted rules of European reasoning, then I think we might rationally anticipate nothing but ultimate advantage to the country as well as to its Government, from the unrestricted expression of their opinion, however severely they might criticise, from time to time, this or that particular detail in the action of this or that particular administration. But this is not the case as regards those journals which are published in the vernacular languages. Written for the most part by persons very imperfectly educated, and altogether inexperienced; written, moreover, down to the level of the lowest intelligence and with an undisguised appeal to the most disloyal sentiments and mischievous passions; these journals are read only or chiefly by persons still more ignorant, still more uneducated, still more inexperienced than the writers of them; persons wholly unable to judge for themselves, and entirely dependent for their interpretation of our action upon these self-constituted and incompetent teachers. Not content with misrepresenting the Government and maligning the character of the ruling race in every possible way and on every possible occasion, those mischievous scribblers have of late been preaching open sedition; and, as shown by some of the passages which have to-day been quoted from their publications, they have begun to inculcate combination on the part of the native subjects of the Empress of India for the avowed purpose of putting an end to the British Ráj. This is no exaggeration. I have here under my hand a mass of such

poisonous matter, extracted from the various organs of the vernacular Press.”

After citing a variety of examples His Excellency continued :—“ I think the Council must have been satisfied by the specimens which have now been submitted to its notice that the vernacular Press is at present adept in the treasonable art of instigating mischievous action, both by the expression of opinion and the statement of fact. I am confident that there is no Government in the world which would tolerate, no Government which could afford to tolerate, none which would be justified in tolerating the unrestricted utterance of such language as is now addressed by the vernacular journals of this country to the ignorance, the prejudices and the passions of a subject race. I maintain that to prohibit the mischievous utterances of such journals as those from which I have quoted is no more an interference with the liberty of the Press, than to prohibit the promiscuous sale of deadly poisons is an interference with the freedom of trade.”

“ If,” he went on to add, “ even in the most advanced self-governing societies, it be still the acknowledged duty of the State to provide by law for the repression of publications calculated or designed to pervert the mind and poison the sentiments of those whose characters are yet unformed and whose judgment is still immature, then I assert with confidence that there is no Government in the world on which that duty is more incumbent than the Government of India, and that the measure which in our discharge of that duty we have laid before this Council is an eminently just as well as an urgently necessary measure. For I maintain without fear of contradiction that the young people in England for whose mental and moral protection Lord Campbell’s Act was passed are infinitely less ignorant, less easily influenced, infinitely better able to govern their own passions and guide their own conduct, than the helpless masses of our native population, on whose behalf you are now asked to pass this Bill. It may, and by some persons it probably will be regarded as an objection to this measure that it draws a distinction, and apparently an invidious distinction, between the native and the English Press. The distinction is not between Englishmen and natives

or between the English Press and the native Press. It is not against native papers as such that our legislation is directed. We confine our measures of restriction purely to the papers written in vernacular languages, and we do so because, as I have said before, they are addressed solely to an ignorant, excitable, helpless class—a class whose members have no other means of information, no other guide as to the action and motives of their rulers.”

In conclusion, His Excellency said:—“ We must, of course, expect that by those people whose minds are governed by phrases, and who look upon the liberty of the Press as a fetish to be worshipped rather than as a privilege to be worthily earned and rationally enjoyed, this measure will be received with dislike, and the authors of it assailed with obloquy. It is my hope, however, that the gradual spread of education and enlightenment in India may insure and expedite the arrival of a time when the restrictions we are now imposing can with safety be removed. I am unwilling to hamper the free influence of honest thought, but I recognise in the present circumstances of this country and the present condition of the populations committed to our charge a clear and obvious duty to check the propagation of sedition and prevent ignorant, foolish, and irresponsible persons from recklessly destroying the noble edifice which still generously shelters even its vilest detractors. That edifice has been slowly reared by the genius of British statesmanship out of the achievements of British valour. It was founded by English enterprise; it has been cemented by English blood; it is adorned with the brightest memorials of English character. The safe preservation of this great Imperial heirloom is the first and highest duty of those to whose charge it is entrusted—a duty owed to the memory of our fathers as well as to the interests of our children, to the honour of our Sovereign, no less than to the welfare of all her subjects in India.”

The Bill was passed, and became Act IX of 1878. This Act, which is now chiefly of historical interest, may be described as a measure designed for the prevention of sedition and extortion by the publishers of periodical literature in the vernacular languages, by means of a system of personal security.