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AMRITSAR AND OUR DUTY TO INDIA

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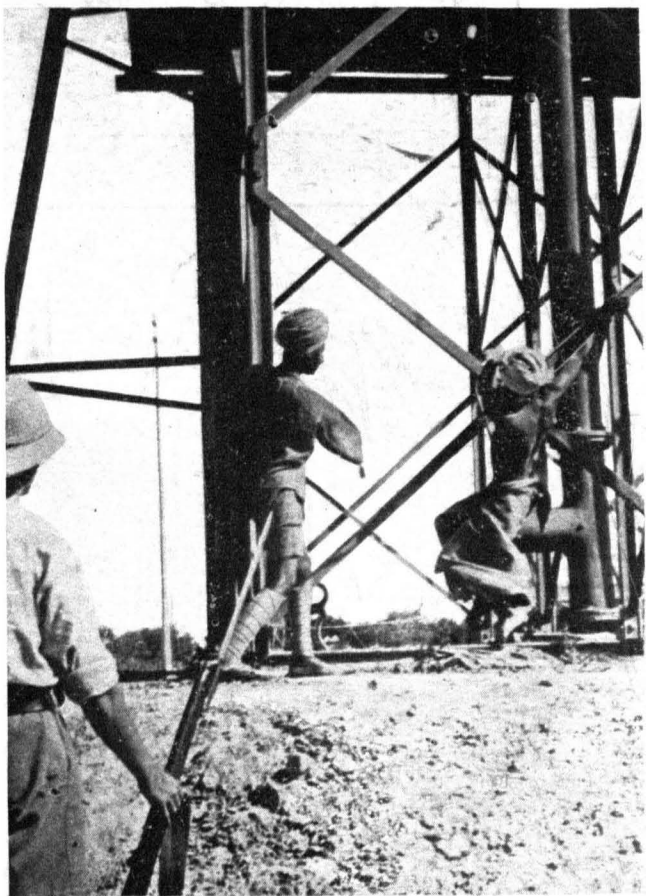
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A SEPOY FLOGGING AN OFFENDER.

On the left is a British sentry with fixed bayonet

*Frontispiece.*

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# AMRITSAR

AND

# OUR DUTY TO INDIA

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BY

B. G. HORNIMAN

WITH FOUR ILLUSTRATIONS

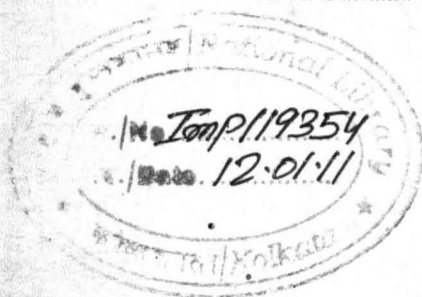
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# AMRITSAR AND OUR DUTY TO INDIA

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## INTRODUCTION

No event within living memory, probably, has made so deep and painful an impression on the mind of the public in this country as what has become known as the Amritsar Massacre. This is not surprising, for the event itself is without parallel. The British mind was shocked by, and indignant at, the Congo atrocities and the frightful deeds perpetrated by the Germans in France and Belgium—to mention two outstanding instances. But it was a new experience to learn of revolting atrocities committed by British officers, and to learn of them at first hand from the mouths of the perpetrators themselves, in frank, brutal, and often boastful, language. The relation by General Dyer of the manner and circumstances in which he performed what he conceived to be a “horrible duty,” and

the further horrifying admissions by him and other British officers, who administered Martial Law in the Punjab in April, May, and June of last year, leave us under no obligation to suspend judgment on deeds which no cause or provocation could justify or excuse in the minds of decent men and women. On the contrary, the suggestion that the investigations of the Hunter Committee might result in the finding of such justification or excuse—which seems to find support from no less a person than the Secretary of State for India—requires to be countered and repudiated at the outset.

It is impossible to believe that the people of England could ever be persuaded that a British General was justified in, or could be excused for, marching up to a great crowd of unarmed and wholly defenceless people and, without a word of warning or order to disperse, shooting them down until his ammunition was exhausted and then leaving them without medical aid ; or that justification could be shown for indiscriminate and promiscuous bombing of unarmed civilian crowds from aeroplanes, or forcing all and sundry

to crawl through a street as an act of retaliation, or public floggings, or enclosing suspects in a public cage—to mention only a few of the measures carried out by the men who administered Martial Law in the Punjab. But it is possible that issues may be obscured, and the attention of an ill-informed public diverted by misleading, exaggerated, and wholly false representations as to the degree of danger in the situation with which the men who did these things had to deal. It is desirable, therefore, that the public should be placed in possession of the essential facts. To this end, it is the purpose of this book to explain the situation which produced the disturbances that led to the establishment of Martial Law in the Punjab last year, as well as the causes which produced the situation. It is the more desirable because the Hunter Committee was conducting an inquiry that was inadequate and one-sided, and, by the terms of reference, was precluded from examining and reporting on one of the most important factors—the responsibility for, and participation in, wrongdoing of the Government of India, which gave a blank cheque

to Sir Michael O'Dwyer, the Lieutenant-Governor of the Punjab, and did everything needful to supply the deficiencies of his own limited authority.

As regards the first defect, the Hunter Committee has, except in Delhi and Ahmedabad, heard only the evidence of officials, and a few other witnesses put forward by the Government to support the official case. A mass of evidence was carefully prepared, after months of investigation, by a committee appointed for the purpose by the Indian National Congress. This involved, however, the production of political leaders and others, who were, at the time, in gaol, undergoing sentences imposed by Martial Law Courts. These men naturally refused to give evidence unless they were allowed to be present to hear the evidence given against them, and to have the right to cross-examine the official witnesses, either by counsel or otherwise—counsel for the Government, it may be mentioned, have been present throughout with free right of examination of all witnesses. The Government of India refused this request, and would only allow the

release of these men for the period of their own evidence in each case. The Hunter Committee, when asked to exercise its authority in the matter, refused to intervene. In these circumstances, the persons concerned very properly declined to give evidence, and the Committee of the Congress decided to boycott the inquiry. Since then, many of these men have been released under the terms of the King's Proclamation for a general amnesty, and the offer was again made, according to a Reuter's telegram, for their evidence to be given, but the Hunter Committee replied that the opportunity for so doing had passed.

Without entering into the merits of this controversy, it will be agreed that an inquiry which lacks the presentation of the people's side of the case cannot be regarded, in a matter of such extreme gravity, as adequate or satisfactory.

As to the other defect, the matter is clear. The Hunter Committee was appointed by the Government of India, and it is to report to the Government of India; and its composition in-



cludes representatives of the Government, both civil and military. The responsibility of the Government of India in this matter, as well as that of the Secretary of State, in view of all that has been revealed and all that was for so long concealed, is obviously a matter for public inquiry, and that can only be done by a Commission of a wholly impartial kind appointed by Parliament. We owe it as much to ourselves as to the people who have suffered these great wrongs that responsibility should be fixed and accounted for in every quarter, from the highest to the lowest. British honour and good faith are gravely imperilled in India to-day. Whether they survive or whether they are to be accounted as naught is the grave question with which the British people are faced. On the answer depends whether our relations in the future with a people bitterly aggrieved are to be good or evil.

As it is clear that the report of the Hunter Committee cannot place the public in this country in the possession of all the knowledge that is essential to a full understanding of a matter of

which they are largely ignorant, I propose to set before them as fairly and as briefly as I can in the following pages :

### **1. CAUSES OF UNREST.**

The general causes, and, in particular, the policy of the Government which produced so great a ferment in India in the early part of last year.

### **2. THE ROWLATT ACT AGITATION.**

An explanation of the Rowlatt Act and the reasons for which it was regarded by the people of India with feelings of apprehension amounting to terror.

The obduracy and provocative policy pursued by the Government of India in forcing such hated legislation through the Imperial Council, in the face of a united national protest.

The aggressive measures adopted in the Punjab which were the immediate cause of the disturbances.

### 3. THE REIGN OF TERROR.

The horrors of Sir Michael O'Dwyer's "Reign of Terror" during the administration of Martial Law, and his deliberate plan of concealment carried out with the connivance of the Government of India.

### 4. RESPONSIBILITY.

The facts regarding the responsibility of :

1. The Secretary of State.
2. The Viceroy and the Government of India.
3. Sir Michael O'Dwyer and his Martial Law administrators.

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PART I

*CAUSES OF UNREST*

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## CHAPTER I

### INDIA'S SACRIFICES AND SUFFERINGS IN THE WAR

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No country suffered economically more severely from the war than India. The poverty of her people is perennial, and probably unparalleled throughout the world. The bulk of the population is agricultural. There are a few, comparatively speaking, large and wealthy landowners, but the vast mass of this great agricultural population consists of small peasant proprietors and labourers who are permanently in debt, and whose average income may be placed generously at £2 per annum. The industrial and middle-class population is not much better off. To take a few figures at random, for these pages cannot be filled with statistics, an idea of the chronic condition of poverty that prevails can be gained if it be mentioned that the pay of a clerk in Bombay or Calcutta varies from about 27s. to £10 a month ; a police-constable gets about 10s.

a month; the wages of mill-workers vary, in Bombay, from 16s. to a little over £3 a month, and in Bengal from 12s. to £2 a month. Miners are paid even less. In these people's lives luxury and amusement are practically non-existent, their living is a bare subsistence, they are without many of what we regard as the necessities of life, there is no margin to meet the stress of hard times. They live in a permanent state of indebtedness. When people talk, as they often do wickedly enough, of the "prosperity of India" during the war, they ignore the fact that the wealth is distributed among a small capitalistic class, in which the foreign element plays a large part. Prosperity has never assailed the patient lives of the toiling masses, whose condition of drudgery is such, that they are sufficiently grateful if they get from day to day the bare amount of simple food which enables them to sustain their short lives, which end mostly at or before middle age. It does not need a very vivid imagination to realise how heavily the burden of war fell upon a people whose economic condition is so deplorable.

The Government did nothing to lighten the burden. They aggravated it in many ways. We may pass over the egregious lectures which officials, high and low, delighted in giving to the people on their good fortune in being so far removed from the actual theatres of war. The fact remains that they felt the incidence of war in their daily lives with a severity that would not have been borne by a people less patient, and accustomed to suffering. The expression, used by Lord Hardinge, that India was "bled white" in the early part of the war, applies to her condition throughout the four and a half years that it lasted. Enormous quantities of food-stuffs, that would otherwise have been utilised for home consumption, were continually sent out of the country for the use of the armies in the field, and every sort of commodity and raw material that could be used for military purposes was, of course, "controlled" in the interests of the Government. Control of coal, wheat, hides, etc., for Government purposes, was, for a long time, the only kind of control set up and exercised. Many scandals were connected with that, with

which, however, we are not concerned for the moment. It was not until very late in the day, and after the pent-up sufferings of the people had produced a food riot in Bombay, that the Government at last yielded to the demand for the control of rice and other commodities, in which the most rampant profiteering had been carried on at the expense of the people. And this, when it came, was very incompetently exercised, and not free from suspicion of corruption, with the result that it brought little relief to the sufferers. Added to all this was the slowness of Government and private employers in yielding to the need for some commensurate increase in the remuneration of their employees, and the inadequacy of the increase when at last they moved. In one direction, though, it is interesting to note that the Bombay Government, at least, acted with strength and decision. They passed a drastic Rent Act, which, while it was of undoubted benefit to the working and middle classes, incidentally proved a boon to the European community, official and non-official, in whose interests Governments in India can



always be persuaded to move promptly and decisively.

But the Indian public bore it all very patiently. They were enthusiastic for the war at the outset, the cause stirred their imagination, and roused their sympathy, in a sense which can only be appreciated by those who can realise the sentiments towards oppressed peoples which must animate a people who look to gain their own freedom. And if enthusiasm is not exactly the word to describe their sentiments as the gigantic struggle dragged its weary length from one disappointment to another, they never wavered in the loyalty of their attitude to the Allies' cause. They believed the war was being waged for the freedom of all, and the reiterated declarations of one British statesman after another, and the expressed ideals with which President Wilson came into the war, encouraged them in the high hope that their freedom as a full partner in the Empire must inevitably follow the winning of freedom for others by the help of their sacrifices. So for the most part they were uncomplaining. They kept up a steady

agitation for their own claims, in the face of the tendency to discourage those claims, and even to repudiate them, on the part of those representing British authority. But they supported the war by colossal sacrifices, proportionate to their own poverty. Enormous sums were raised for hospitals, and the philanthropic side of the war generally. A million and a half men went to shed their blood on the battlefields of Europe, Africa, and Asia, and even to fight against the Turks, whose Sultan exercises spiritual authority over so many of the Indian soldiers, and whose allegiance to their temporal sovereign was sustained by the solemn promises made to them that their spiritual interests would not be assailed, or allowed to suffer. There is little margin for additional taxation of a people so poor, but that imposed was borne without complaint, and one loan after another was raised, while in addition a free gift of a hundred million sterling was made by the poorest to the richest country in the world !.

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## CHAPTER II

### WAR LOAN AND RECRUITING METHODS

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THE effort that was made might even have been greater if the policy and methods pursued by the Government had been less harsh, provocative, and stupid. The Indian Defence Force Act, which was passed for the conscription of Europeans, and, secondly, to recruit battalions from the educated Indian classes, was a failure in the second object. It might have been a success if the Government had not refused Indians access to the commissioned ranks, and thus created a prejudice against the proposal which could not be overcome. Recruiting campaigns for the regular Army might have been attended with a far greater measure of success if they had not been hopelessly officialised and conducted in many instances, especially in the Punjab, by the methods of the old English press-gangs in the French wars. Popular leaders, some of whom

were actually clamouring for conscription, were distrusted and ignored, and recruiting committees were composed, for the most part, of officials and their nominees, who, in their turn, were distrusted by the people. In the Punjab, and elsewhere, the method adopted was to indent on each district and village for the number of recruits that it was considered it ought to produce, and then leave it to the local officials to see that the complement was forthcoming, using such methods of "pressure and persuasion"\* as they thought fit. Some of the methods employed, such as trumped up prosecutions and actual cruelties on the person, to enforce recruitment have been revealed before the Hunter Committee. But if a tithe of the stories of oppression and cruelty that are related in the bazaars and by people of standing were true, it would form a severe indictment of Sir Michael O'Dwyer's Government. Popular leaders advocated, and would have raised, a great citizen

*This was the phrase used by Lord Willingdon's Government in description of methods of rank oppression, which they held to be legitimate, in obtaining subscriptions for a war loan.*

army. But that was too dangerous an expedient for a Government that rules by force.

Nor were the methods employed to raise the war loans less obnoxious. It must not be assumed that coercive measures, which is the proper English for Lord Willingdon's "pressure and persuasion," were necessary. The loans could have been raised as well by the reasonable and productive methods of securing popular co-operation. And it is only fair to say that in the large cities, where the light of day prevails, this was done to a considerable extent. But in the country districts the "indent" system prevailed. Local officials had to make returns of the lending capacity of the areas in their charge, and subordinates, feeling that their reputation for efficiency depended on results, entered with zest, down to the police-constable, on the task of extorting the highest amount that "pressure and persuasion" could produce. All over India one heard the stories of this campaign of extortion from people who could not afford to pay. Without going to the Punjab, the story of what occurred in a *taluka* in the Bombay Presidency

may be quoted, for it includes the *zoolum*\* both of war loan and recruiting methods. Here the local *mamlatdar*, or petty collector, followed what appears to have been a not infrequent practice of sending out summonses on official printed forms, under the Land Revenue Code, calling upon people to appear before him "in regard to the War Loan." Then he descended on a village, summoned certain villagers to appear before him, arbitrarily made out a list of the amounts they were expected to pay, and then closed the village well until such time as they paid. That particular case was fully exposed. But Lord Willingdon's Government, far from being shocked, after a perfunctory investigation, issued the communiqué condoning "pressure and persuasion."

The following year the *mamlatdar*, having received this meed of encouragement, followed similar methods in obtaining recruits. Summonses on this occasion were sent out on printed forms under the "Recruiting Act," a

\* The word is not fully translatable, but it means generally oppression.

statute which had no existence except in his ingenious brain, and men were taken by force. The people's patience, under the two years' strain, broke down when he seized the assistant priests of a temple, had them forcibly shaved, and proposed to hand them over to the recruiting officer. An angry mob surrounded his bungalow, and, after allowing his family to escape, burnt it to the ground with him in it. That was a direct outcome of the condonation of oppression, and now the village has to pay a punitive police tax, though several people were hanged or imprisoned for the crime. A great deal more might be written to expose the scandals attending these recruiting and war loan campaigns, but the present object is served if enough has been said to show the kind of harassment which the Indian people bore with remarkable patience throughout the war, ever looking to the end, which was to bring them relief from these oppressions and emancipation from their political shackles.

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## CHAPTER III

### POLITICAL REPRESSION

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THEIR troubles, however, were not confined to their economic sufferings and these oppressive and iniquitous methods of raising the sinews of war. Public opinion was continually irritated and provoked by the persistent endeavours to repress legitimate political propaganda and muzzle the Press. At the beginning of the war, there was an appeal for the suspension of all controversy, to which the Indian leaders cordially responded and loyally conformed, until it became clear that this was to be a one-sided arrangement. While demanding abstention from political agitation by the public, and expecting to be immune from criticism in the Legislative Councils, the bureaucrats themselves carried on "as usual" with the introduction of highly controversial legislation, and in other ways. The "no controversy" pact could hardly be expected to last under these conditions, especially when



it was found that the war was not regarded as a bar to the conduct of political agitation in England, and other parts of the Empire. Indians began to wonder, when they found that the self-governing Dominions were beginning to put forward their claims for a voice in the supreme councils of the Empire and a more definite position in the Imperial scheme after the war, what would become of India, the Cinderella of the Empire, if they remained silent and waited for their claim to be adjudged, and their reward defined by others. And when Mrs. Besant uttered a warning on the subject, and followed it by launching the Home Rule League campaign, there was a wide and enthusiastic response. Public apprehension as to the fate of India in a post-war reconstruction of the Empire was raised to a high pitch by the accidental discovery of the amazing proposals of the Round Table group, which were being formulated and discussed by certain high officials and Mr. Lionel Curtis, with the assistance of Sir Valentine Chirol. Mr. Lionel Curtis went to India to study the conditions of the country, in order to solve the problem

of how India was to be fitted into the scheme of an Imperial Commonwealth, and he was actively assisted in his subterranean propaganda by Sir James Meston,\* then Lieutenant-Governor of the limited Provinces, and Mr. Marris,† his Inspector-General of Police. In a private letter to Mr. Philip Kerr, then secretary of the Round Table Conference, Mr. Lionel Curtis discussed the possibility of India being made subordinate, in her external and internal affairs, to an Imperial Council, on which the self-governing Dominions would be represented, but she would not. He added that this would perhaps lead to bloodshed, but if it were the right thing to do, that would have to be faced. The writer stated in his letter that the views expressed in it were generally approved by "Meston, Marris and Chirol." Copies of this letter, for circulation among the Round Table Confederates, were actually printed in the Government Press at Allahabad. One came

\* Now Lord Meston.

† Now Sir James Marris. It is not without significance that these two officials subsequently played a large part in the moulding of the Montagu reforms, and that Mr. Lionel Curtis was the inventor of Dyarchy.

into the hands of *The Bombay Chronicle*, which promptly published it, and the echoes of the sensation it caused have hardly yet died. Its publication coincided with the sittings at Lucknow in December, 1917, of the Indian National Congress, and immensely strengthened the position of those who were urging that Indians must agitate for their rights, war or no war, and gave a great impetus to the Home Rule movement throughout the country.

Lord Chelmsford and his Government, and the Provincial Governments, in varying degrees, were at the same time setting their faces with an ugly expression against all active political propaganda. They began to use the Press Act with frequency and severity. Lord Willingdon surprised those who had looked upon him as a sympathetic and liberal-minded administrator by putting the Defence of India Regulations in force for the exclusion of Mrs. Besant from the Bombay Presidency, and publicly deprecating and even reprobating political agitation. The Viceroy received a deputation of the Indian Press Association, who represented the injustice

and severity of the Press Act and its operations, only to hector them like schoolboys and to express views which would have done credit to the Austrian administrators to whom the late Sir Herbert Risley went for the models on which he drafted the provisions of the Act. At about the same time, early in 1917, a confidential circular was sent out to the Provincial Governments, instructing them to deal drastically with Home Rule propaganda and Home Rule organisations. The Mohammedan community, especially suffered. Mahomet Ali and Shaukat Ali, the two most popular Moslem leaders in India, were interned early in the war, their paper was suppressed, and one Moslem journal after another, especially in the Punjab, was penalised, and usually succumbed under the operations of the Press Act and the Defence of India Act. In Bengal the internment of suspects proceeded on a wholesale scale till the number ran into thousands. Young men disappeared from their homes, some to be confined in solitary cells, and the public imagination was stirred to its depths by stories of torture and

men going mad and committing suicide under imprisonment without trial or charge. A young professor of the Calcutta University, who became mad in gaol (he was never charged or tried), was actually removed to a criminal lunatic asylum, and the Government of Bengal replied to his mother's pathetic appeal for his release on the ground that his power to harm the Government was gone, that she could, if she wanted to be near her son, take up her residence in the asylum on condition that she submitted herself to the ordinary rules and regulations of the institution ! The careless fashion in which the terrible powers of the Executive, under the Defence of India Act, were being used was illustrated by a case in which two innocent Bengali ladies were arrested, made to walk several miles under the hot sun, then carried a long distance by bullock cart, and finally imprisoned in a common gaol for a considerable period, before it was admitted that their arrest was due to a mistake resulting from gross carelessness, and their agony prolonged by a series of blunders in red-tape routine. The final touch of horror was added when two High

Court Judges, appointed to report on the operation of the Act in Bengal in regard to internments, declared that, while torture to extort evidence was to be deprecated, it was not desirable to ignore evidence so obtained in the case of revolutionary crime for the internment of suspects !

Finally came the dramatic pronouncement of Lord Pentland, the Governor of Madras, who publicly declared that people had better put all thoughts of the early realisation of self-government out of their minds, denounced the Home Rule agitation, and declared his intention of dealing with those who ignored his warnings with a heavy hand. Soon afterwards the whole of India was thrown into a state of ferment by the internment, by Lord Pentland, of Mrs. Besant and her chief lieutenants. This was in June, 1917.

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## CHAPTER IV

### THE GLOOM OF 1919

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WHAT would have ultimately followed upon this it is not necessary to speculate. The immediate effect was an intensification of the Home Rule agitation, added to which was the clamour all over the country for the release of the interned leaders. The advent of Mr. Montagu to the India Office, however, following upon the discredit thrown upon the Government of India by the Mesopotamia revelations, brought about a change of attitude. The announcement of August, 1917, declaring that responsible government was the goal of British policy, in spite of its qualifying phraseology, brought some measure of relief to a distracted people whose leaders were at that moment about to inaugurate a passive resistance movement, and public apprehensions were further calmed by the announcement of Mr. Montagu's visit to India to discuss reforms with the Viceroy and public bodies, by the

release of Mrs. Besant, and the removal of restrictions on certain other persons.

A period of comparative restfulness followed. But the publication of the Montagu-Chelmsford scheme in the following year produced a profound sense of disappointment by the inadequacy of its proposals. It was roundly condemned, even by some of those who subsequently accepted it *faute de mieux*. Mrs. Besant, who has since visited England as its champion, declared at the outset that it was "unworthy of England to offer and unworthy of India to accept." The Congress, in a special session attended by a record number of delegates, declared that it was "disappointing and unsatisfactory," and demanded a number of extensions and modifications, none of which have been accepted. They laid special stress on a "Declaration of Rights" guaranteeing to Indians freedom of person, speech, and association, and equality of rights with all subjects of the King and Emperor.

The reply of the Government of India to the demand for a Declaration of Rights was the introduction of the Rowlatt Bills, which proposed



permanently further to limit in an extraordinary degree the rights of Indians. The Rowlatt Bills were published early in 1919 and introduced, and the principal one passed into law, in a few days in March. The next chapter will deal with their provisions, and the reasons which caused the Indian people to regard them with such grave apprehension, and the consequent agitation in the country. In the meanwhile, it should be noted that nothing had happened, apart from this, to ameliorate the temper of the people, but a great deal to aggravate it. The conclusion of the war brought no relief of the severity of economic conditions. On the contrary, foodstuffs seemed to grow dearer; and public movements for the betterment of the condition of the people, especially in the case of industrial strikes, were dealt with unsympathetically and even harshly. The scandal of the incompetence of food control was growing. During the great mill strike in Bombay the mill districts bore the aspect of an armed camp, and strikers were shot down in circumstances that would have evoked a storm of wrath

had these events occurred in England. The Mohammedan community was deeply perturbed by the threatened fate of Constantinople and the blow thus to be struck at their spiritual head, as well as by the continued internment of their leaders, and repression of propaganda. In all this the sympathies of their Hindu brethren were keenly excited. Finally, the rumblings of a threatened mutiny in the Indian Civil Service, and the bitter agitation of the European community against the Reforms were crowned by the obvious intention of the Government of India to attempt to have them whittled down. The conclusion of the war thus found India in a condition of gloomy apprehension and irritation, and in looking ahead their attention was necessarily concentrated on the certain evils of the Rowlatt Act, rather than the questionable benefits of the Reform scheme, which promised them no relief from the iron control of the irresponsible bureaucracy.

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PART II

*THE ROWLATT BILLS AND THE  
AGITATION*

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## CHAPTER V

### ORIGIN OF THE ROWLATT LEGISLATION

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IN dealing with the agitation which was produced by the introduction of the Rowlatt Bills, and which came to a head on the passing of the second but the more important of them into law, it is necessary to offer first a brief account of the measures, why they were brought in, and why the people of India regarded them with alarm bordering on panic.

From the year 1907 and onwards there was a certain amount of revolutionary crime in India ; it was not widespread, it was confined to a small section of extremists, who, however, were extremely well organised, and became better organised as time went on. Acts of violence, in the form of the assassination of officials (mostly the police officers who were investigating their crimes), and *dacoities* (robbery under arms by gangs), were the chief features of their campaign ; but they endeavoured also to work on the minds

of the younger generation in schools and colleges, chiefly in Bengal, by means of secret propaganda. The police, especially in Bengal, were by no means successful in coping with their crimes, which if spasmodic and infrequent—if considered statistically in relation to crime as a whole—were sufficiently disconcerting to the Government, and particularly to the police, from whose ranks most of their victims were selected. The legal annals of Bengal contain the records of cases during the years from 1908 to 1914 which were abortive on account of the blundering and ill-conceived methods of the police themselves, in spite of the fact that an Act was passed for the removal of such cases to special tribunals, composed of three High Court Judges. These failures were due to the usual faults of police work in India—the hankering after approvers and confessions, to be obtained by any means, good or bad; the concoction of a little evidence to make a bad case good or a good case better; and the suppression of facts which fail to fit the theory that has been built up for the convenience of the prosecution. However that may be, the fact

was that these crimes, without growing to very large proportions, continued, and the police authorities took up the attitude that, if they were to be confined within the limits of the procedure which bare justice demands and human liberty enjoins, they were helpless in the face of a secret organisation which persistently defied their efforts. Demands were put forward for special powers, the lowering of the standard of evidence, and other devices for the easy success of the police in securing convictions. The Indian police, as at present constituted, are the very last who should be entrusted with such extraordinary powers: they already enjoyed more than the police in this country in a great many respects. And the whole Indian Press anticipated with the liveliest apprehension the prospect of any extension of those wide powers which already enabled the police to oppress the people.

Whether legislation on the lines indicated would have been attempted is now matter only for profitless speculation. The war came, and with it an unexpected opportunity for those who favoured drastic methods of dealing with political

suspects. One of these was Sir Reginald Craddock, then Home Member of the Viceroy's Executive Council, and he grasped the opportunity. He was chiefly responsible for the Defence of India Act, the Indian D.O.R.A., which was placed before the Viceroy's Legislative Council, and patriotically accepted by the Indian non-official members (to their lasting regret) as a "war emergency" measure. Sir Reginald Craddock explained that it might be divided into two parts--the one dealing with emergencies of a purely military nature, and according to the Government special powers in that respect; the other dealing with conspiracies against the State, etc. Very wide powers for internment of persons without trial, and restriction of the liberty of individuals in writing, speech, and movement were given to the Executive, and these were not limited to action against persons of hostile origin or associations, as in England, but were usable against any subject of the King. In addition, power was given for the trial of offences under the Act by tribunals composed of commissioners below the status of High Court Judges, who

would have the power to take direct cognisance of offences, thus abolishing all preliminary proceedings, and would sit without juries. There was to be no appeal from any sentence passed by them, and their powers of punishment extended to the death sentence. Nobody ever supposed that these powers would be used, except for purposes coming legitimately under the description of war emergency. But the disillusionment was grave. Political suspects of all sorts were imprisoned without trial, papers were made to suffer for their political views on the least pretext, the movements of political leaders who were loyal supporters of the war were restricted, and Special Tribunals sometimes sat to try cases not even remotely connected with the war, which were thus removed from their legitimate sphere, depriving those charged of their proper rights of trial by jury and appeal, etc. As an instance may be mentioned a case of a religious riot, which was utterly unconnected with any danger to the State, in which a large number of persons were tried and sentenced by a Special Tribunal under the Defence of India Act.



These things are mentioned here because they have an important bearing on the attitude of apprehension which was produced later when the Rowlatt Act came on the scene.

It is claimed by the Executive Authorities in India that the powers enjoyed under the Defence of India Act enabled them to cope, with a large measure of success, with the revolutionary crime which had baffled them hitherto. It is not necessary to argue about that. It is possible that, if the London police had power to arrest and imprison without trial indefinitely every person they suspected of burglarious intent, burglaries would for a time diminish, but it is certain that a very large number of innocent people would be thrown into gaol. The claim was made, and, in view of the fact that the war would one day end and the Defence of India Act cease to exist six months thereafter, the Executive bethought themselves of the means whereby these powers might be retained and even improved. Thereupon the Rowlatt Committee was appointed to report on revolutionary crime in India, and to recommend measures to cope with it in the

future. It is often the boast of the Government that this Committee was presided over by an English Judge, Sir Sidney Rowlatt, and included among its members two Indian Judges. A distinguished law lord said in the House of Lords, in reference to the Advisory Committee of Judges under D.O.R.A., that a committee of angels could not be expected to give an impartial decision if they heard only one side of the case, and the importance of the Rowlatt Committee's procedure and findings is not in the persons who made them, but in the inherent wrongness of what they did. If men are to be imprisoned without trial, and to have their national liberty and rights restricted in many other important ways, it is little consolation to those who suffer, or those who may at any moment be called upon to suffer, to know that the law under which they suffer is the outcome of the deliberations of a committee composed of Judges, who were set the task of recommending the means whereby the ordinary processes of justice might be dispensed with for the convenience of the Executive, in cases where those proper and essential processes

prevented the conviction of suspects. For the Rowlatt Committee, after all, were set a definite task, and all they did was to do what the Government asked them to do. In arriving at their conclusions, it is true that they confirmed the Government's view as to the gravity of the revolutionary crime that had existed, and the danger of its recrudescence. But it must be remembered that they conducted their deliberations *in camera*; the material on which they reported consisted for the most part of secret police records, and the public men whom they associated with responsibility for revolutionary propaganda or the promotion of movements which led to crime, as alleged, were not given the opportunity of appearing before them to be heard in their own defence. Such an investigation could hardly result otherwise than in a complete endorsement of Government views. But it is important to note that in making their recommendations as to the form of the legislation which would confirm, in the hands of the Executive, the powers temporarily exercised under the Defence of India Act, and improve them, the

Committee were careful to state that they had not considered whether such legislation was, in any respect, beyond the competence of the Governor-General in Council. Many hold that it was. But the point has not been tested.

The Government of India, however, were in no doubt on the matter. The armistice was no sooner signed than they set about the task of getting this legislation through. The two Bills were gazetted early in 1919 and introduced in the Imperial Legislature shortly afterwards. They were received with amazement by the public, who, accustomed as they had become to the harsh and repressive attitude of Lord Chelmsford's Government, had hardly believed that the triumph of the Allies in the struggle for world-freedom, so largely bought by Indian sacrifices, and the announcement of August, 1917, would be quickly followed by the introduction of drastic legislation, depriving people of their most elementary human rights and unparalleled in the laws of any modern civilised State.

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## CHAPTER VI

### THE "BLACK" BILLS

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PROBABLY few people in Great Britain are well acquainted with the nature of the provisions of the Rowlatt Bills, or have any more than a vague idea about them as some repressive legislation which Indian agitators regarded as obnoxious. It has been said often enough by officials in India, by the Anglo-Indian Press and in telegrams sent to this country by Anglo-Indian correspondents, that the Bills were "wickedly misrepresented" on the platform in India. The fact is, that the provisions are so iniquitous in themselves that it would be extremely difficult to misrepresent them as anything worse than they are. Generally speaking, any proposals to place larger powers in the hands of the police are sufficient to create panic in the minds of the Indian populace, and they have had plenty of experience of the ruthless, cruel use which can be and is made of repressive

legislation, which, of course, is always passed for purposes of temporary emergency and to deal with particular classes of persons, but has a habit of becoming permanent and applying itself in a generous and widespread fashion to all sorts of purposes and people. Executive authority does not easily surrender the powers it has once wielded, nor is it easily deterred from using for one purpose powers which were ostensibly given to it by the Legislature for another, if there is nothing in the letter of the law to prevent it. And in India, Executive authority, responsible only to a Parliament seven thousand miles away, which does not hear of happenings in India for eight months and sometimes longer, is naturally less scrupulous than in countries where it can be called quickly to account by those who have in their own hands the power of censure and punishment. The Press Act and the Defence of India Act, as has been already indicated, are glaring instances, to take only two, of legislation that has been used wholesale for purposes outside the scope to which a confiding Legislature, or its non-official minority, was persuaded it would be

confined. The plea, therefore, that the Rowlatt Act is only intended to deal with anarchists and revolutionary conspiracies and movements does not "cut any ice" with the Indian people. They want to know who is an anarchist and what is a revolutionary movement, and prefer that these all-important questions should be decided by proper procedure in the ordinary courts of justice instead of being left to the arbitrary decision of the Executive, who have peculiar and narrow notions on the subject.

However, a brief examination of the provisions of the two Bills will show whether they were the sort of proposals which a people who aspired to political freedom, who had made immense sacrifices and undergone great sufferings to win freedom from oppression for other peoples, could be expected to accept without going to the utmost lengths in resistance, even if they were to refrain from actual violence; or, rather, whether it was not legislation which the least discerning Government (we will leave out the consideration of sympathy and affection for, or gratitude to, the people) ought to have realised

would have raised the protests of the people to the pitch of frenzy.

**Rowlatt Bill No. 1.**—There is some mystery attaching to the peculiar fact that the lesser Bill was subjected to the process of "publishing," while the greater was immediately passed into law. In India there is a technical meaning attaching to the publication of a bill after its introduction in the Legislature. It means that it must be published in all the Provincial Government gazettes and then await the lapse of a certain period before it is passed into law. The Bill that has become an Act was not subjected to this process. It has been stated that the Secretary of State cabled his sanction only for the publication of the Bills, but the Government of India misunderstood or misread the cable, and took it as conveying sanction to proceed with its enactment, with the result that the first intimation of this fact that Mr. Montagu had come to him in the newspapers. The error was rectified too late, and the first Bill was then allowed, with a weakness which has not been wanting in the attitude of Whitehall to the



Government of India, to proceed on its course. Had Mr. Montagu been strong enough to insist upon the Bill being postponed, when it was realised that it would be resisted by a most strenuous popular agitation, the events which have so shocked public opinion in this country would not have occurred.

The minor Bill, however, although it has never passed the Legislative Council, played its part in the earlier stages of the agitation, when both Bills were at the stage of proposals which it was hoped to prevent from being passed into law. Its provisions, though less drastic and sweeping than those of the other measure, were sufficiently alarming. It provided for the amendment of the Indian Penal Code and the Code of Criminal Procedure. India is blessed with a law of sedition, which is as comprehensive and severe as one would have thought ingenuity could make it. The amendments of the two codes, however, proposed to make it even more severe. A new section, 124 B, was to be added which made it punishable by imprisonment up to two years, or by fine, or by both, for

anyone to have in his possession any seditious document, intending that the same shall be published or circulated, unless he could prove that he had such document in his possession for a lawful purpose. The possibilities opened up by this provision, which presumes guilty intention and throws upon the accused the onus of proving the absence of intention, do not require elaboration. There is a direct negation of the first principle of British justice which presumes a man to be innocent, and throws upon the prosecution the onus of proving his guilt. A seditious document is defined in the code as one which instigates, or *is likely to* instigate, the use of criminal force against the King, the Government, or a public servant or servants. Many historical works, reports of trials, or mere curiosities of literature might be brought within so vague a description and the innocent possessor of such, being unable to achieve the impossible and prove that he had no intention that they should be published or circulated, be penalised under the proposed section. They might even come into his possession as waste paper, and be

used to wrap up tea or sugar with the most alarming results in the shape of a suggestion that he had discovered a peculiarly subtle and cunning way of spreading sedition. No suggestion as to the possible consequence of such a law could be regarded as fantastic by anyone acquainted with the methods of the Indian police, and their facile ingenuity in trumping up cases against those who have made themselves obnoxious to authority.

Having created a new crime, and set up a new and startling principle of law, the Bill next proposed to make justice still less safe by providing that on the trial of an offence under Chapter VI. of the Indian Penal Code (offences against the State) the following facts should be relevant—namely :

1. That the person accused has previously been convicted of an offence under that chapter, and

2. That such person has habitually and voluntarily associated with any person who has been convicted of an offence under that chapter.

That an accused's previous conviction should

be used against him is another startling perversion of British justice as we know it and as we have boasted of it in India; hardly less so is the proposal that a man may have it brought in evidence against him that he has habitually and unlawfully associated with anyone who has been convicted of a seditious offence. The friends and relatives of a man who had been convicted under one of the dangerously vague sedition sections of the Indian Code might well begin to shun him, in the knowledge that association with him might be used against them at some future time.

Finally, the Bill proposed that a person *convicted only once* of an offence punishable under Section VI. should be liable to an obligation on his release from gaol to execute a bond with sureties for his good behaviour for a period not exceeding two years. In the event of his not being able to do so, the released person would have to notify his residence, and any change of his residence, to the police during the prescribed period. And, not satisfied with this, the authors of the Bill proceeded to provide that the Local

Government might further place him under a series of restrictions extending to internment and prohibition of speech or writing, with the penalty of imprisonment and fine for disobedience.

**The Rowlatt Act.**—Such was Rowlatt Bill No. 1, which in itself was sufficient to justify the strongest public protest. Bill No. 2, which is now the Rowlatt Act, was far more wide and drastic in its provisions, sweeping away wholesale nearly all the safeguards and checks which human experience has incorporated in the forms of criminal procedure, which we are proud to call British justice. “*Na dalil, na wakil, na appeal*”\* was a popular cry, which, in rough-and-ready idiom, described but inadequately the dangerous features of the new law which was in reality a negation of law. The Rowlatt Act included in its various parts all the three things contained in this cry of the bazaars and a great many worse besides. People could be tried by courts which were empowered to sit *in camera*, which could accept in evidence, in certain circumstances, the recorded statements of persons dead or missing

\* “No argument, no lawyer, no appeal.”

or otherwise incapable of giving evidence, without having been subjected to the test of cross-examination, and whose judgment was to be final and conclusive. The tribunals were to be composed of three persons who would be either High Court Judges or of the status of such, and they were to sit without juries. Proof of previous conviction could be admitted as evidence, a fact which lent piquancy to the provision that an accused giving evidence on oath could not be asked any questions tending to show that he had committed, or been convicted of, or charged with, any other offence, or had a bad character, unless proof that he had committed, or been convicted of (note the distinction!), such other offence was "admissible evidence" to show that he was guilty of the offence with which he was then charged. By such tribunals, with such procedure, without juries, without preliminary proceedings for committal—which are provided for in the ordinary criminal law—and without any sort of appeal from their decision, people could be sent to the gallows or to the Andamans—the hell to which transported convicts in India are com-

mitted for the remainder of their lives. That was Part I. of the Act.

Part II. gave power to the Executive to place persons suspected of (not convicted of, or charged with) complicity in "anarchical or revolutionary movements" under restraint and restriction of their liberty in various ways. They might be made to execute a bond, with or without sureties, not to commit certain offences scheduled in the Act, which included offences under the ordinary law not normally connected with anarchical or revolutionary movements, but liable to be so connected by the arbitrary fiat of the Executive. They might be ordered to notify their residence and any change of residence, in the manner of habitual offenders; to remain or reside in any specified area; to abstain from any act which in the opinion of the Local Government was calculated to disturb the public peace or was prejudicial to the public safety (this might involve the suspension of a man's means of livelihood); or to report themselves periodically to the police. They might be ordered to do any or all of these things, and the order would remain in force for

a year, at the end of which time it could be renewed. The penalty for disobedience of any such order might extend to six months' imprisonment or a fine of five hundred rupees, or both.

Part III. of the Act was even more alarming. This empowered the Executive authority to arrest and search without warrant, and to confine persons so arrested without trial in any part of a prison or place not actually used for the confinement of convicted criminals, and to prolong such confinement from time to time, in periods of one year, by the renewal of orders. There was nothing to prevent the confinement of such persons within the precincts of ordinary criminal gaols, or *in solitary cells*—a practice which had led to hideous results in some of the cases of internment under the Defence of India Act.

Part IV. provided for the automatic continuance of the confinement or restriction of persons already confined or restricted under the Defence of India Act, when that beneficent measure expired six months after the long-deferred conclusion of the war. Part V. added a few more provisions to make the whole business of punish-

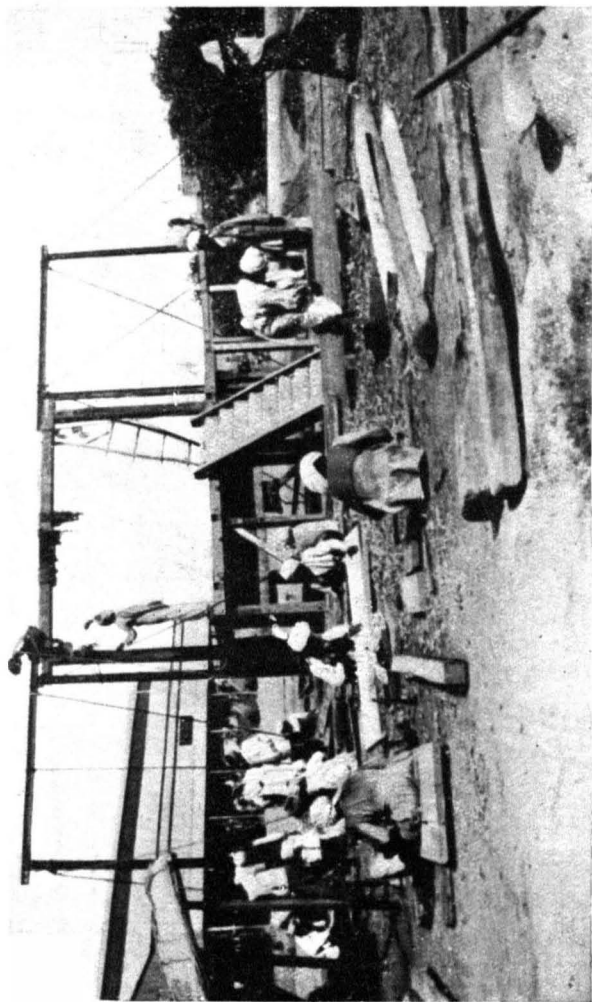


ment by Star Chamber tribunals and restriction of liberties thoroughly sound and water-tight, nothing that could possibly help to do so being forgotten in this odious piece of legislation, which is now part of the law of British India.

Those who have attempted to defend or excuse the measure have made much of the "investigating authorities," for which the Bill provides, to inquire into the cases of persons dealt with under Part II. and Part III., and that before Parts I., II., and III. can come into operation the Governor-General in Council must be satisfied that "in the whole or any part of British India anarchical or revolutionary movements are being promoted," and that (Part I.) "scheduled offences in connection with such movements are prevalent to such an extent that it is expedient in the interests of the public safety to provide for the speedy trial of such offences"; or (Part II.) such movements are "likely to lead to the commission of scheduled offences"; or (Part III.) "scheduled offences in connection with such movements are prevalent to such an extent as to endanger the public safety."

As regards the Investigating Authorities, they could afford no greater guarantee of safety than the other provisions of Parts II. and III. They would be appointed by the Executive for the occasion, and the Act provides that the investigations should be held *in camera*. The person affected would not be entitled to be represented by pleader; "any fact the communication of which might endanger the public safety, or the safety of any individual," would be withheld from him, and the Investigating Authority would not be bound by the rules of the law of evidence. The position of a person attempting to defend himself against vague allegations supported by an untested police dossier before a secret inquiry of this character would be obviously hopeless. And the experience of similar inquiries under the Defence of India Act, to which reference has been made in a previous chapter, was sufficient, apart from the *prima facie* unfairness and injustice of such procedure for the protection of men whose liberty is being robbed, to justify the most grave apprehension of the consequences of placing such powers in the hands of Executive

authority, acting on the instigation of a notoriously and justly distrusted police department. As for the initial condition of a formal declaration of the prevalence of anarchical or revolutionary movements before putting the Act in operation, here the public was to be at the mercy of the state of mind of the Executive, which in India is very easily inflamed into the belief that legitimate expressions of political opinions, or popular agitations for the redress of legitimate grievances, indicate an anarchical or revolutionary spirit in the people; and has been capable, to take one example only, of using a war emergency measure to set up a special tribunal for the trial of persons implicated in a religious riot which had no more the character of an offence against the State than the man in the moon. Nothing but the arbitrary notification of its opinion by the Government in the *Gazette of India* would be required for the immediate creation of anarchy or revolution, and since the "scheduled offences" included a number of ordinary crimes under the common law, such as rioting, unlawful assembly, assault, etc., their "prevalence to such



THE GALLOW'S ERECTED AT KASUR ON MAY 3 AND TAKEN DOWN UNDER ORDERS OF THE  
COMMISSIONER OF LAHORE.

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an extent as to endanger the public safety"—when do they not?—would be not less difficult to assert as a matter of opinion—and the Act demands no more—than that political movements, which the Government chose to consider anarchical or revolutionary, were likely to lead to the commission of "scheduled offences." Even in England a railway strike was denounced by the Prime Minister as an anarchical movement. It would probably require less to provoke authority in India to make use of these powers lying so temptingly at hand.

But one need not analyse legislation of this sort closely, to justify the opposition to and fear of it by a people on whom it was being thrust by an autocratic Government. The broad fact is sufficient that, at the conclusion and not the commencement of a war, at a time when no emergency existed, when no danger to the State was indicated, it was proposed to take away, not from persons of hostile origin or hostile association, but from subjects of the British Crown, the right of trial, and to expose them to all the terrors of arrest without warrant, im-