

*Wednesday,
10th July, 1889*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

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ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS,

1889

VOLUME XXVIII



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*Abstract of the Proceedings of the Council of the Governor General of India,
assembled for the purpose of making Laws and Regulations under the
provisions of the Act of Parliament 24 & 25 Vict., Cap. 67.*

The Council met at Viceregal Lodge, Simla, on Wednesday, the 10th July, 1889.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, G.C.M.G., G.M.S.I.,
G.M.I.E., *presiding*.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General G. T. Chesney, C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C., C.S.I.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble P. P. Hutchins, C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble R. J. Crosthwaite.

ACTS VI AND VII OF 1884 AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Bill to amend Acts VI and VII of 1884 be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Mr. Hutchins, the Hon'ble Mr. Crosthwaite and the Mover.

The Motion was put and agreed to.

CENTRAL PROVINCES MUNICIPAL BILL.

The Hon'ble MR. CROSTHWAITE moved for leave to introduce a Bill to make better provision for the Organization and Administration of Municipalities in the Central Provinces. He said :—

“ The law regarding municipalities in the Central Provinces has for many years followed the law in force in the Punjab. In 1867 an Act was passed for the Punjab which was extended by executive orders to municipalities in the Central Provinces. In 1873 the Government of the Punjab found that Act XV of 1867 did not meet the requirements of the Punjab, and accordingly Act IV of 1873 was enacted repealing Act XV of 1867 and making better provision for municipalities. Shortly after this Act XI of 1873 was passed to provide for municipal committees in the Central Provinces. This Act is still in force. It is a short Act

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of twenty-three sections drawn exactly on the model of the Punjab Act, IV of 1873. The powers given by the Act for the purposes of taxation are stated in very general terms. As regards the organization of the committees and the administration of towns much is left to rules and bye-laws, and the Chief Commissioner is invested with a somewhat unlimited power of control by which he can suspend or limit all or any of the powers of a committee, cancel any of its proceedings, rules or bye-laws, and remit or reduce any tax which it may impose. Such a law was only suitable for the infancy of municipal institutions, and accordingly it was found necessary in the Punjab to supersede Act IV of 1873 by Act XIII of 1884, an Act containing full provisions, in accordance with modern experience and requirements, for the organization of committees, the administration of municipal towns and the control to be exercised over municipalities by the Government.

" In the Central Provinces also it has now become necessary to replace the present brief enactment by an Act containing more ample and more suitable provisions. The Chief Commissioner, Mr. Mackenzie, has given his careful attention to the state of the municipalities in his Province, and he is of opinion—an opinion in which the executive officers and the municipal committees concur—that the present Act is insufficient to meet the requirements of the municipalities. The powers of taxation given by the Act are expressed in such terms that it is doubtful whether the levy of some of the existing taxes is legal. The legality also of some of the bye-laws and rules now in force is open to doubt, and Mr. Mackenzie is also of opinion that the very wide and arbitrary power of control vested in the Chief Commissioner by section 17 of the present Act should be replaced by the better regulated power of control which is conferred on the Local Government by the Municipal Acts in force in other Provinces.

" The present Bill, my Lord, has therefore been prepared. It introduces no new principles into the constitution of the municipalities in the Central Provinces, but adopts from other enactments, principally from the North-Western Provinces and Oudh Municipalities Act, 1883, and the Punjab Municipal Act, 1884, provisions which appear to Mr. Mackenzie suitable to the conditions obtaining in the Central Provinces, and in harmony with the past policy of the Local Administration in the conduct of municipal affairs.

" Following the usual plan the Bill is divided into eight Chapters. The first Chapter provides for the constitution of municipalities; the second for the organization of municipal committees, the mode in which they can enter into contracts, and their privileges in the case of suits brought against them; the

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third for taxation and the municipal fund; and the fourth for the municipal police. The fifth Chapter confers on municipal committees powers for sanitary and other purposes, and the sixth Chapter defines and provides penalties for offences affecting the public health, safety or convenience. The seventh Chapter contains provisions for the control to be exercised over municipalities by the Deputy Commissioner, the Commissioner and the Local Government. The last Chapter contains the usual supplemental enactments such as the provisions regarding notices to be issued by committees, the acquisition of land for a municipality, the alteration of the limits of a municipality and the withdrawal of a municipal area from the operation of the Act.

"I do not think, my Lord, that it is necessary that I should mention in detail all the provisions of the Bill, as it follows in the main the law contained in the Municipal Acts of the North-Western Provinces and the Punjab. I will therefore only notice briefly the principal provisions of the Bill and explain those which are not contained in existing municipal laws. The constitution of committees as provided by Chapter I of the Bill will remain as at present, that is to say, the committee will consist of not less than five members, who will be appointed, as the Local Government may direct, either by virtue of their office or by nomination or by election, or some by one and some by any other of such methods. In accordance also with the present law, not less than two-fifths of the members are to be persons other than salaried officers of the Government. The president and vice-president will be appointed by the Local Government, or by the committee if the Local Government so directs; and power is given to the Local Government to remove for certain specified reasons a president, vice-president or other member of a committee. In sections 11 to 17 of the Bill, both inclusive, the rules for the conduct of business, namely, as regards the time for holding meetings, ordinary and special meetings, the quorum necessary for the transaction of business, and such matters, have been adopted from the Punjab Municipal Act. Section 22 of the Bill slightly modifies the enactment at present in force regarding suits against the committee or its officers. It is provided in the Bill that the period before which such a suit may not be instituted shall be two months, instead of one month, after the delivery of a notice of the cause of action, and the limitation of such suits is fixed at four months, instead of three months, next after the accrual of the cause of action.

"The third Chapter regarding taxation and the municipal fund follows in the main the corresponding Chapter of the Punjab Act. Section 29 of the Bill, however, gives the Local Government a somewhat wider power with respect

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to the abolition of taxes. Mr. Mackenzie considers that in the circumstances of the Province this power is needed to prevent the minor municipalities from interfering unduly with trade by imposing octroi on goods passing along lines of traffic.

"Chapter IV of the Bill follows the North-Western Provinces and the Punjab Acts with regard to the provisions relating to the municipal police. This Chapter, therefore, calls for no remark.

"The powers for sanitary and other purposes contained in Chapter V of the Bill are also adopted from the corresponding Chapter in the Punjab Act, and provision is thus made for matters which now have to be provided for by rule. I must notice, however, that in section 47 of the Bill the committee is not required, as in the Punjab Act, to make compensation for refusing to allow a person to erect a new building. The right to obtain compensation in such a case is thought to be too extensive and to be liable to abuse. In the powers conferred on a committee by section 49 regarding bathing and washing places a power has been included enabling a committee to prohibit acts which may cause inconvenience or annoyance to persons using the bathing or washing places. It has been found necessary, for instance, at bathing places, such as those on the river Narbadda, which are much frequented, to prohibit persons from fishing while people are bathing. Section 52 of the Bill contains a new provision empowering the Deputy Commissioner, for the preservation of the public peace or order, to prohibit or regulate the slaughter of animals for purposes other than sale. Such a power is found to be needed in some towns where there may be contests between Hindus and Muhammadans, and the sacrifice or slaughter of particular animals at particular times may give rise to serious disturbances. The provisions of section 60 of the Bill contain the provisions of section 100 of the Punjab Act, regarding the power to inspect places for the sale of food or drink and to seize unwholesome articles of food. Provisions, however, adapted from Bengal Act III of 1886, regarding the disposal of unwholesome food and the power to require the sale of a quantity of any food or drink for the purpose of analysis, have been added, in order to give additional powers for suppressing the sale of unwholesome food or drink. I must also notice that the power given by clause (c) of section 79 of the Bill to make rules for licensing, controlling and regulating the practice of brokers, ~~measurers and weighers~~ practising their calling in public places within a municipality is not taken from the Punjab Act, but is in accordance with the existing practice in the Central Provinces. Clauses (d) and (f) of the same section are new provisions.

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Power is given to the committee by the former clause to make rules for prescribing the standard weights and measures which are to be used within the municipality, and by the latter clause to make rules to prevent, if necessary, nuisance arising from the smoke of factory chimneys.

" The sixth Chapter of the Bill follows the Punjab Municipal Act in defining, and specifying the penalties for, offences affecting the public health, safety or convenience. Such matters are now provided for by the municipal rules, but it is considered advisable that penal legislation of this kind should, as far as possible, be contained in the Act and not left to the discretion of a municipal committee. Two offences have been added by sections 98 and 105 of the Bill to the list contained in the Punjab Act. Section 98 makes it an offence to beat drums contrary to the orders of a committee—an offence which it has been found necessary in the North-Western Provinces to provide for; and section 105, following Bengal Act III of 1886, provides a penalty for selling articles of food or drink which are so adulterated as to be different from the article which the seller professes to sell.

" The provisions of Chapter VII regarding control are taken from the North-Western Provinces and the Punjab Municipal Acts and call for no remark. The last Chapter of the Bill contains the usual supplemental provisions with the addition of section 126, which gives the Local Government power to make rules regulating the conservancy of reservoirs and the land adjoining thereto. The town of Nagpur has for some years been supplied with water from a large reservoir, and recently, owing to the great liberality of Raja Gokuldass, Rai Bahadur, the municipality of Jabalpur has also been enabled to construct a reservoir. Both these reservoirs are situated outside the limits of the municipalities, and it is most important that the Local Government should have the power of taking measures so as to secure the safety and the purity of the water-supply. The section accordingly gives the Local Government power to make rules regulating the doing in the reservoir, or in or upon the catchment area thereof, any act by which the purity of the water or the safety of the reservoir may be impaired, and generally regulating the conservancy of the reservoir and the catchment area. The section also provides that the breach of a rule made under it may be made punishable with fine.

" I think, my Lord, that there is no other matter in the Bill which now calls for remark.

The Motion was put and agreed to.

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The Hon'ble MR. CROSTHWAITE also introduced the Bill.

The Hon'ble MR. CROSTHWAITE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Central Provinces Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

CENTRAL PROVINCES VILLAGE-CONSERVANCY BILL.

The Hon'ble MR. CROSTHWAITE also moved for leave to introduce a Bill to make better provision for Conservancy in Villages in the Central Provinces. He said :—

“ This Bill is intended to make provision for carrying out measures of sanitary improvement in villages situated in rural tracts of the Central Provinces.

“ The object which Mr. Mackenzie has had in view in framing the provisions contained in the Bill is to secure the co-operation of the villagers in the work of sanitation. The Central Provinces Land-revenue Act, 1881, declares that it shall be the duty of the mukaddam, the head of the village, to keep his village in good sanitary condition, and the Chief Commissioner is given power to make rules regulating the liability of persons residing in a village for charges necessarily incurred by mukaddams in the performance of this duty. It is difficult, however, for a mukaddam in a small village to make sanitary improvements without incurring unpopularity. The improvements will require money, and money cannot be had without taxation for which the mukaddam will be held responsible by the villagers. The rules for sanitation cannot be enforced without a penalty, and the mukaddam, if he wishes to enforce them, will sometimes have to prosecute those who disobey them, and thereby to incur still greater unpopularity. Mr. Mackenzie considers that the proper course will be to associate the village-community with the mukaddam in the work of sanitation, and thus to place it on a popular basis. The provisions of the Bill are very simple. They are applicable only to a village which contains not less than three hundred inhabitants and which the Deputy Commissioner declares by an order in writing to be in an insanitary state. When this declaration has been made the Local Government may, either on the application of the mukaddam and ten or more of the inhabitants or, if they fail to apply, on the application of the Deputy Commissioner, extend the provisions of the Bill to the village. The next step

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will be the formation of a pancháyat consisting of the mukaddam and four representatives of the village-community who are to be chosen by election. The duty of the pancháyat will be to determine, subject to the Deputy Commissioner's approval, the sum which will be annually required for the conservancy of the village, the provision and maintenance of a good water-supply, the maintenance of the village-communications and, if the inhabitants so desire, the aiding of the village-school. This sum is to be raised by an assessment on the houses and lands within the village with reference to the circumstances of, and property possessed by, the owners of the houses and lands. Section 6 of the Bill confers on the Local Government power to make rules for regulating the mode of election and the proceedings of the pancháyat, for ascertaining the wishes of the inhabitants of the village, for limiting the amount of taxation and regulating the assessment and collection of the tax, for regulating conservancy, defining and prohibiting public nuisances, and generally for carrying out the objects of the Bill. The Local Government is also given the power to provide a penalty of fifty rupees for the breach of a rule. Section 7 of the Bill gives the Local Government power to withdraw any village from the operation of the Act, and section 8 provides that when the Act is in force in any village the authority of the district council or local board established under the Central Provinces Local Self-government Act, 1883, shall be suspended in respect of all matters made over to the pancháyat.

" It is not, my Lord, I submit, necessary or desirable to attempt any elaborate system of village-conservancy. What is especially required is to teach the villagers to keep their wells and tanks, or the streams from which they draw their supply of water, as pure as may be practicable, to keep their streets and houses clean, and to arrange so that manure and refuse may be deposited in a place where they will not cause injury to the health of the people. Large powers are reserved to the Local Government in order that the provisions of the law may be used with due care and caution, until the people understand and appreciate the advantages of village-conservancy and are able and willing to take a more direct and active part in the work of sanitary improvement. "

The Motion was put and agreed to.

The Hon'ble MR. CROSTHWAITE also introduced the Bill.

The Hon'ble MR. CROSTHWAITE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Central Provinces Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

*CENTRAL PROVINCES LAND-REVENUE; CENTRAL
PROVINCES TENANCY.*

[*Mr. Crosthwaite.*]

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CENTRAL PROVINCES LAND-REVENUE BILL.

The Hon'ble MR. CROSTHWAITE also moved that the Bill to amend the Central Provinces Land-revenue Act, 1881, be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Sir Charles Elliott, the Hon'ble Mr. Hutchins and the Mover.

The Motion was put and agreed to.

CENTRAL PROVINCES TENANCY BILL.

The Hon'ble MR. CROSTHWAITE also moved that the Bill to amend the Central Provinces Tenancy Act, 1883, and the Central Provinces Local Self-government Act, 1883, be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Sir Charles Elliott, the Hon'ble Mr. Hutchins and the Mover.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 31st July, 1889.

S. HARVEY JAMES, .

*Secretary to the Government of India,
Legislative Department.*

SIMLA ;

The 11th July, 1889.

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