

*Wednesday,
14th August, 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 14th August,
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 Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

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 Muhammad Ali Khan.

The Hon'ble Báábá Khem Singh Bedi, C.I.E.

N E W M E M B E R.

The Hon'ble BABA KHEM SINGH BEDI took his seat as an Additional Member.

CANTONMENTS BILL.

The Hon'ble Lieutenant-General Chesney presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Cantonments. He said :—

“ It is unnecessary to do more than refer to the circumstances under which this Bill has been prepared. It is sufficient to say that the existing Cantonment Law had become in many respects obsolete, and that it was found simpler and more satisfactory to prepare an entirely new Bill than to attempt an amendment of the existing Act.”

‘ The Select Committee in their Report draw attention to the circumstance that while there has been a general concurrence of opinion on the part of the authorities consulted in favour of the provisions of the first part of the Bill,

[*Lieut.-General Chesney; the Commander-in-Chief.*] [14TH AUGUST,

relating to the general administration of cantonments as regards police, conservancy, taxation, and so forth, the second part of the original Bill, which relates to immoveable property in cantonments and forms Chapter V thereof, has provoked considerable discussion and opposition. Under these circumstances, as cogent reasons exist for the speedy enactment of the first part of the Bill, it has been decided to omit Chapter V from the revised Bill, and that this chapter should be dealt with as a separate enactment after a further consideration of it by the Select Committee in Calcutta.

"Under this Bill power is given to the Governor General in Council to make rules consistent with the Act for the conduct of various executive duties in connection with the management of cantonments, and amongst other things for the segregation in, or the removal and exclusion from, a cantonment of persons suffering or suspected to be suffering from any infectious or contagious disease.

"It will be within the recollection of the Council that, in consequence of a Resolution passed last year by the House of Commons, the regulations which were at that time in force in regard to the supervision of a certain class of persons liable in a special degree to contagious disease were suspended. Since that time the class in question has been entirely uncontrolled by regulations, and the military and medical authorities report that there has been already an alarming increase of disease among the soldiers of the Indian Army, both British and Native. This is a matter which is engaging the particular attention of the Government of India and the military authorities. It is impossible to overrate the importance of the subject involved, whether we consider the efficiency of the Indian army or the welfare and health, present and future, of those serving in it. The regulations provided by the new Bill for dealing with this matter, the substance of which has just been mentioned above, merely provide for the same precautions being taken in regard to this disease as are required in the case of smallpox, measles, anthrax or any other infectious disease, and are the least coercive that could be imposed, short of according special favour and protection to the propagation of the disease in question over all other contagious diseases. The Government of India has a duty towards the troops serving under its orders, which it is bound by every consideration, and which it intends, to fulfil."

His Excellency THE COMMANDER-IN-CHIEF said :—

"With Your Lordship's permission I propose to say a few words on the Report of the Select Committee which has just been presented by my hon'ble colleague General Chesney.

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[*The Commander-in-Chief.*]

"I may, perhaps, be allowed to do so, as, being responsible for the discipline and efficiency of the Army, and constantly mixing with troops, as it is my duty to do, I have better opportunities than any of my hon'ble colleagues for forming a correct opinion as to the peculiar needs of the British soldier in India. Moreover, I have been led to understand that the members of this Council are desirous that I should give them my views on the very delicate and important question brought forward for their consideration to-day.

"In deference to public opinion at home, as expressed in a Resolution of the House of Commons, the Contagious Diseases Act was repealed in this country about a year ago. The result has been a most serious increase of venereal in the army, not only in the number of men affected but in the virulence of the disease.

"The Surgeon General, Her Majesty's Forces in India, has been good enough to prepare a statement showing the percentage of venereal cases to the total sick in hospital at most of the stations occupied by British troops in June, 1883, and during the same month this year. The year 1883 has been taken as the Contagious Diseases Act was then in full operation at all the stations given in the statement. From this return I find that at no station in 1883 did the number of venereal cases to sick in hospital reach 30 per cent., at only two stations indeed was it over 25 per cent., while at some stations it was under 12 per cent. In June of this year, at 13 stations the percentage was more than 50, at a great many stations it was just under 50, and at the majority of the remainder it was 30 and over. I shall, perhaps, state the case more clearly if I explain that, on the 13th July, 1883, there were 33,359 British soldiers in the Bengal Presidency, of whom 593 were in hospital with venereal, or at the rate of 1·77 per cent. On the same date in July of this year, out of a force of 44,183 men, 1,548 were in hospital, or at the rate of 3·5 per cent.—as nearly as possible double. Great as this difference is, the comparison is altogether in favour of 1883; for at that time all illnesses resulting from venereal contagion were included as venereal and are shewn as such in the total number of cases, namely, 593; whereas since that time a very large percentage of the results following venereal are not returned as venereal. Consequently, the number of cases in hospital on the 12th July of this year, namely, 1,548, does not really represent the total number of men laid up with, or from the effects of, venereal. However, the figures I have given are sufficiently startling, and I think the Council will agree with me that some remedy must be applied to such a lamentable state of affairs.

"Licensing and compulsory examinations being condemned, we must fall back on supervision and medical treatment in hospitals, while venereal must be

[*The Commander-in-Chief.*]

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placed on the same footing as other loathsome forms of disease dangerous to the public. Those who voluntarily adopt prostitution as their trade cannot reasonably complain if they are placed under greater restrictions and disabilities than persons engaged in reputable occupations, and fortunately for our soldiers, black as well as white, and indeed for those who are obliged to live in military stations, the discipline necessarily maintained in them renders it comparatively easy for the authorities to keep the disorderly classes who elect to reside in cantonments under control.

"In the present Bill power is taken to ensure the greatest possible amount of decorum in the conduct of prostitutes, and to remove them from cantonments if their presence there is found to be injurious to the public health. The rules by which the policy of the Act in this respect will be given effect to will be framed with the utmost care, and under the direct authority of the Government of India. Under these rules prostitutes who voluntarily come into cantonments will do so upon terms to which objection cannot, I think, be taken, and which will tend to prevent their spreading this terrible disease in the wholesale manner they are now doing.

"Considering the contagious nature of venereal, and how innocent people may suffer both in the present and future generations, it seems a positive duty to try and diminish the danger as much as possible. I trust that the public both here and in England will be satisfied that, in the measures now contemplated, the Government of India is doing no more than is absolutely necessary to check the scourge which is rapidly impairing the efficiency of the army and ruining the health of the soldiers, who are surrounded by far greater temptations in India than (I believe) people in England have any idea of. In a country where prostitution is practised as a trade, and where shame in a European sense does not attach to it, it is hopeless to expect to put it down altogether. All that can be done is to try and minimise its evil results, and raise the moral tone of the soldier by every means in our power. In the present Bill the Government of India have endeavoured to legislate so as to restrain the practice of prostitution as much as possible, and, in order to assist the soldier, institutions have recently been established in all regiments and batteries, which are being made as comfortable and attractive as circumstances will admit, with a view to affording men rational amusement and occupation and thus prevent their spending their leisure hours wandering about bazars and Native cities. For the Government of India to shut its eyes to the existence of prostitution, and to the havoc it is working among our troops,—a havoc

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which is preventible without any sacrifice of morality or undue interference with personal liberty,—would be a distinct dereliction of duty, to the charge of which we ought not to expose ourselves.”

His Excellency THE PRESIDENT said :—“ I think the Government of India is greatly indebted to the Commander-in-Chief for the weighty and outspoken statement to which we have just listened. If there was any room for doubt as to the gravity of the case with which we are confronted, his statement has dispelled the doubt, and I believe that those upon whom will be thrown the responsibility of preparing rules under the Bill now upon the table will certainly endeavour to carry out as effectually as possible the precautions which are suggested by His Excellency's speech. I say ‘as effectually as possible,’ because he has reminded us that we are not entirely free in the matter. We are bound by the terms of the House of Commons' Resolution, to which he has referred, and, as long as that Resolution is in force, it will be our duty to conform to its spirit. Now, that Resolution lays down two principles—one that the Government of India is not to encourage by its legislation the compulsory examination of women; the other that it is not to give any facilities for what is described as the licensing and regulation of prostitution in India. I am not without hope that we may find it possible, without overstepping those limits, to provide measures which will be effectual for preventing this particular form of disease from being propagated, as it appears to be at present, without let or hindrance. The rules which we shall have to frame will, I apprehend, follow the general direction indicated by the terms of the Bill, and will be directed mainly to the exclusion from the limited area to which the Bill applies of individuals known to be affected with this class of disease, and to the provision of hospitals in which they may be adequately treated. To say that we are not to take steps of this kind appears to me to be tantamount to claiming for a class of disease which is probably attended with more disastrous consequences than any other, both in reference to its immediate and to its remoter effects, an immunity which is not claimed for any other kind of contagious malady. I do not believe that such an immunity will be claimed even by those who are most earnestly desirous of discouraging immorality, and I hope public opinion will support us in the reasonable steps which it will be our duty to take, in order to carry out, within the limits which I have indicated, this most necessary measure.”

CENTRAL PROVINCES MUNICIPAL BILL.

The Hon'ble MR. SCOBLE moved that the Bill to make better provision for the Organization and Administration of Municipalities in the Central

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Provinces be referred to a Select Committee consisting of the Hon'ble Mr. Hutchins, the Hon'ble Muhammad Ali Khan, the Hon'ble Mr. Crosthwaite and the Mover.

The Motion was put and agreed to.

CENTRAL PROVINCES VILLAGE-CONSERVANCY BILL.

The Hon'ble MR. SCOBLE moved that the Bill to make better provision for Conservancy in Villages in the Central Provinces be referred to a Select Committee consisting of the Hon'ble Mr. Hutchins, the Hon'ble Muhammad Ali Khan, the Hon'ble Mr. Crosthwaite and the Mover.

The Motion was put and agreed to.

ACT XXXVI OF 1858 AMENDMENT BILL.

The Hon'ble MR. HUTCHINS moved for leave to introduce a Bill to amend Act XXXVI of 1858. He said :—

“The Bill which I ask leave to introduce is but a little one, and I shall not trouble the Council with any lengthy remarks regarding it. Its object is to amend the law relating to lunatics.

“Under Act XXXVI of 1858 Local Governments may establish or license asylums for the reception and detention of lunatics, and section 4 authorizes a Magistrate to commit wandering or dangerous insanes to ‘the asylum established for the division in which his jurisdiction is situate.’ About four years ago a question arose as to the accommodation of insane persons belonging to a province which has no public asylum of its own. It was accordingly enacted by Act XVIII of 1886 that, ‘*when an executive Government has not established within its limits a public asylum for the reception and detention of lunatics, the Governor General in Council may from time to time appoint an asylum, established in British India beyond those limits, to be an asylum to which a Magistrate exercising jurisdiction within those limits may send lunatics.*’

“It will be observed that the power thus reserved to appoint an extra-provincial asylum can only be exercised when there is no such institution

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[*Mr. Hutchins.*]

within the province. But it may happen that the asylum most conveniently situated with regard to some parts of a province which possesses an asylum of its own may be outside its limits, and such a case has been recently brought to notice from Assam. An asylum has been opened at Tezpur, which lies in the Assam Valley about 24 hours by steamer above Gauhati. From Sylhet to Gauhati is a long and tedious journey of some 150 miles, which can only be done on foot, and the road passes across the Khasi Hills and through Cherrapunji, which enjoys the reputation of being the wettest place in India. To escort lunatics all this distance is no easy matter, and the sudden and severe changes of temperature involve great risk to their health, which is often far from robust. On the other hand, there is an excellent and commodious asylum at Dacca in Bengal, and there is easy communication between Dacca and Sylhet by the river Surma. On every ground it is far more convenient that insanes from the Surma Valley should be sent to Dacca than that they should be transported across the hills at peril of their lives to Tezpur.

“A similar difficulty might arise if the provincial asylum were full, or if the patient were a female and the asylum ill-adapted for the reception of women, while convenient accommodation could be provided in another place within reach. It is therefore proposed to extend the power of the Governor General in Council to cases in which an intra-provincial asylum has been established but is found to be inconveniently situated with respect to some part of the province, or not to afford sufficient or suitable accommodation.

“The object of the second part of the Bill is to give the Governor General in Council power to remove any lunatic from one province to another—a power which he already possesses with regard to criminal insanes under Act X of 1886, sections 12 and 25. In a country which boasts of 106 different languages this is obviously desirable, or we may have a lunatic shut up in a place where he cannot make himself understood. And, as each province is held financially responsible for its own lunatics, it may wish to have them brought under its own direct supervision rather than to pay some other province a higher rate for taking charge of them.”

The Motion was put and agreed to.

~~The Hon'ble~~ MR. HUTCHINS also introduced the Bill.

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The Hon'ble MR. HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 28th August, 1889.

S. HARVEY JAMES,

SIMLA ;	}	<i>Secretary to the Government of India,</i>
<i>The 16th August, 1889.</i>		<i>Legislative Department.</i>

Note.—The Meeting fixed for the 31st July, 1889, was subsequently postponed to the 14th August, 1889.