

*Thursday,
6th August, 1891*

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

LAWS AND REGULATIONS

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,
ASSEMBLED FOR THE PURPOSE OF MAKING
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 under the
provisions of the Act of Parliament 24 & 25 Vict., Cap. 67.*

The Council met at Viceregal Lodge, Simla, on Thursday, the 6th August, 1891.

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 Sir P. P. Hutchins, K.C.S.I.

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

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

INDIAN MERCHANT SHIPPING ACT, 1880, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR presented the Report of the Select Committee on the Bill to amend the Indian Merchant Shipping Act, 1880.

MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Bill to extend the jurisdiction of the Court of Small Causes of Madras be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover.

The Motion was put and agreed to.

PUNJAB MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS also moved for leave to introduce a Bill to make better provision for the administration of Municipalities in the Punjab. He said:—

“As the hon'ble member (Mr. Rattigan) whom Your Excellency has lately appointed to represent the Punjab has not yet taken his seat, it devolves upon me to move for leave to introduce this Bill.

[*Sir Philip Hutchins.*]

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"The law which at present governs the municipalities of the Punjab was enacted in 1884 at a time when a general extension of local self-government was taking place throughout India. It was therefore naturally framed upon a far more elaborate and ambitious model than the former Municipal Act of 1873. The older law was not indeed at that time expressly repealed except in regard to those municipalities to which the new law was specifically extended. But the practical inconvenience of two independent municipal systems in one Province was too great for continuance. The Act of 1884 was speedily extended to all the municipalities then in existence, while no new municipality was ever constituted under the Act of 1873. The latter Act thus fell into complete desuetude; but it was only finally repealed a few months ago by the Obsolete Enactments Act, No. XII of the present year.

"Since August, 1884, therefore, Act No. XIII of 1884 has been in practice the sole municipal law of the Punjab, and an experience of six years has discovered some faults in its operation and some deficiencies in its provisions. Both the faults and the deficiencies are probably due to the very great difference of condition which exists among the various municipalities of the Punjab, and to the extreme difficulty of framing any single enactment which shall be appropriately fitted to the various circumstances of them all. On the one hand, there are large and growing commercial centres, such as Amritsar and Delhi, with a great and intelligent population, with adequate resources, and with large and growing municipal wants and requirements. On the other hand, there are numerous country-towns with a small population which hardly affords material for a municipal administration even of the simplest description. These towns have practically no conception of municipal life on a large scale. Their resources are narrow, and their wishes correspond with their powers. Lastly, apart from both these classes are the various hill-stations, peculiar in their physical situation, the character and habits of their population and the special needs and expectations which follow from these peculiarities.

"Even this enumeration by no means exhausts the differences of condition among the Punjab municipalities, but it sufficiently indicates the difficulties of the case. To some extent these difficulties are recognised in the existing Act by the division of municipalities into two classes, and by the power given to except individual municipalities from the operation of particular provisions of the law. But these arrangements, though salutary in themselves, are insufficient and often hard to apply in practice. The fact remains that there is at present no adequate method by which municipal committees can deal with many matters which either

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[*Sir Philip Hutchins.*]

now require, or may shortly require, regulation in the more highly civilized communities, as well as at the hill-stations. At the same time, on the other hand, the apparatus of administration is unnecessarily cumbrous for the smaller towns, and there is naturally some reluctance to bring under so elaborate a system those small townships which are not at present municipalities but in which it is desirable to provide at least some measures of rudimentary sanitation and perhaps also some arrangement for local watch and ward.

" Acting upon these considerations the Punjab Government resolved to undertake an amendment of the municipal law. Their proposals were embodied in a draft Bill recently submitted to the Government of India. Almost everything that is new in the Bill which I am about to ask leave to introduce is taken from this draft or from supplementary suggestions made subsequently by the Local Government. But if the Bill had been passed merely as an amending Act the result would have been to spread the municipal law of the Province over two separate enactments, and this seemed an undesirable arrangement in regard to municipalities in which the law has to be administered by men who have often no legal training and for whom it is therefore expedient to supply a single enactment in as lucid and compact a form as possible. It has therefore been decided (with the full assent of my hon'ble friend the Lieutenant-Governor of the Punjab) to repeal the existing Municipal Act and to re-enact it with the alterations and additions recommended in the original draft amending Bill. This decision has swollen the Bill now in my hands to very formidable dimensions. But, though rather alarming to look at, it in reality consists for the most part of what is already law and has been law since 1884. What is new is of no great compass, involves no large matter of principle, and merely deals with a number of details of municipal administration. Some of these details have a certain amount of importance, while others are more or less insignificant. I will not weary the Council with a detailed enumeration of the changes which have been made or of the reasons for them. Both will be found fully set out in the Statement of Objects and Reasons annexed to the Bill. But I think that all the new proposals can be conveniently distributed into three groups, and it will perhaps be desirable for me to indicate the character of each group and of the more important items comprised in it.

" In the first place, there are a number of sections which grant new or enlarged powers to committees or in connexion with municipal administration. Some of these are expressly confined to municipalities at hill-stations. Such are the powers to make rules to license porters and hired horses given by section 145. Other powers—such as those given by section 93 for the regulation of building—

[*Sir Philip Hutchins.*]

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though not expressly confined to hill-stations, are not likely in practice to be applied elsewhere. The remaining important sections of this type are those which give increased power of control over petroleum and similar inflammable materials (105 and 120), that which gives power to regulate by rule the places in which food and drink may be manufactured for sale or sold (137), those which endeavour to reduce the danger from the malignant diseases of cholera and small-pox (140-143), those which provide for the establishment of fire-brigades (Chapter VIII), and lastly the section which provides for the control of houses of ill-fame (203). In all the more important of these matters the committees will exercise their powers under somewhat strict control from Government, and additional precautions are provided in two ways in regard to all matters which appear to involve any interference with individual habits or industry. In the first place, the various sections will not operate in any municipality unless specially extended thereto, and, in the second place, no such extension will be possible unless specially applied for by the committee. There seems therefore no ground for apprehension either that the committees will abuse their powers or that measures of advanced administration will be thrust upon an unwilling population without its own consent. I may mention that the provision for the control of houses of ill-fame was inserted in the Bill by the Local Government in compliance with the prayer of a petition from Lahore bearing numerous and influential signatures.

"The second group of amendments to which I would refer comprises all those sections which attempt to make municipal administration in general less cumbrous and more efficient. It would be tedious to enumerate these, and were I to attempt the task I could do little more than recapitulate the Statement of Objects and Reasons. Among them will be found provisions to facilitate the change from an appointed to an elected or from an elected to an appointed committee. There are also provisions for decentralizing the administration of the smaller municipalities by delegating some of the functions of the Local Government in regard to them to Commissioners. Other sections of the Bill are intended to simplify the imposition and remission of taxation, and to make better provision for appeals against assessments. The provisions of the existing law as to house-scavenging (which have proved unworkable in practice) have also been thoroughly reformed. Larger powers of control have been given over certain classes of municipal servants. And, lastly, power has been taken to compound offences against municipal byelaws and to make prosecutions for such offences much simpler and more speedy than under the present law.

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"The third and last group of changes is that contained in the last chapter of the Bill. There are a good many places in the Punjab, of which Kalka may be mentioned as a good instance and one familiar to hon'ble members, which are clearly not fitted for municipal government, but which nevertheless require some adequate arrangements for conservancy or for police or for both. At present such townships can only be dealt with under Act No. XX of 1856, which is an inconvenient, and in some respects an obsolete, enactment. Chapter XI of the present Bill endeavours to supply a simple regulation for places of this description. Under its provisions it will be possible in several small towns to provide at least some rudimentary measure of public cleanliness, and in process of time, as resources develop, such towns may be gradually elevated to full municipal rank.

"The remaining changes introduced by the Bill are not of much importance. They deal mainly with elucidations of doubtful points in the present law, or with the regulation of minor practical details. I do not think I need detain the Council with any account of these."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th August, 1891.

S. HARVEY JAMES,

SIMLA;
The 7th August, 1891. }

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