

*Thursday,
8th October, 1891*

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

LAWS AND REGULATIONS

Vol. XXX

Jan.-Dec., 1891

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

1891

VOLUME XXX



Published by Authority of the Governor General.



CALCUTTA
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1892

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

The Council met at Viceregal Lodge, Simla, on Thursday, the 8th October,
1891.

PRESENT:

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.

The Hon'ble W. H. Rattigan, M.A., LL.D.

PUNJAB MUNICIPAL BILL.

The Hon'ble MR. RATTIGAN moved that the Report of the Select Committee on the Bill to make better provision for the administration of Municipalities in the Punjab be taken into consideration. He said :

" I do not think there is any need for me to enter at any length into the past history of legislation on this important subject. The whole circumstances which had rendered fresh legislation necessary were fully explained by my hon'ble friend Sir Philip Hutchins, who acted as sponsor for the Bill on the occasion when it was introduced, and so short a time has since elapsed that it is quite unnecessary for me to follow him upon those points.

" But as the Member who more particularly represents the province that will be affected by the Bill, if it becomes law, I would desire, with Your Excellency's permission, to make the following observations, which will, I hope, serve to explain the general scope and character of the alterations which the present Bill makes in the existing law regulating municipalities in the Punjab.

" In order, however, to make hon'ble members more readily comprehend these alterations, it will be necessary for me to refer here to the defects of the existing law, though I shall endeavour to do so as briefly as possible.

[*Mr. Rattigan.*]

[8TH OCTOBER,

"That law, as hon'ble members are aware, is embodied in Act XIII of 1884. But this enactment, although intended to make better provision for the organisation and administration of municipalities in the Punjab, did not by express words repeal the former Act, IV of 1873, which was allowed to prolong an obsolete existence for nearly seven years, until Act XII of 1891 acted the part of its executioner and finally caused its formal removal, along with much other 'dead matter,' from the Indian statute-book by the painless process of a statutory extinction.

"An experience extending over the same period has, however, proved that the Act of 1884, which superseded that of 1873, is itself not fully adapted to meet all the widely different requirements of municipalities in this province. These bodies are found to vary largely in type, representing communities no larger than good sized villages and capital cities, once the seat of empire, like Delhi and Lahore,

'whose game was empires, and whose stakes were thrones'.

"They differ naturally in all the main elements of their constitution, in their capacity for local government, in their special needs and resources, and in certain other marked local conditions; and no law regulating their proceedings and powers can be effectively applied which is not distinguished by great clearness of language and extreme simplicity of procedure, as well as by a judicious mixture of definiteness in principle with elasticity in details. The framers of Act XIII of 1884 were by no means unmindful of these peculiarities of municipal administration in a large province like the Punjab, the people of which are far more educated and advanced in some parts than in others, and an attempt was made to meet the difficulty by dividing municipalities into two broad classes, and by giving the Local Government the power to except any municipality from any of the provisions of the Act if they were deemed unsuitable thereto. But even with these devices the current of municipal administration has not been found to run smoothly, while there are a number of small towns in which it is desirable to introduce some regulations, for sanitary and other purposes, affecting the comfort, health and safety of the inhabitants, but in respect to which it is quite impossible to apply the somewhat cumbrous provisions of an Act like XIII of 1884. That Act was admittedly a compromise between divided opinions, and the then Lieutenant-Governor of the Punjab did not hesitate to say in Council that the form in which the Act was passed was not in all respects what he desired. But the hope was nevertheless entertained—a hope common to legislative efforts at all times—from Theodosius to Napoleon—but a hope in each

1891.]

[Mr. Rattigan.]

instance doomed to early disappointment—that the Act then passed had solved the difficulty of regulating municipal government in the Punjab. A comparatively short existence of seven years has dispelled the illusion, and it is now admitted on all hands that the Act of 1884 has been found inadequate. Too intricate for the wants of smaller towns, not wide enough in its scope to meet the growing requirements of large cities and hill municipalities like Simla, and defective in matters relating to control, prevention from fire, restraint of infection, and regulation of manufacture, preparation and sale of food and drink, an amendment of the law was urgently called for.

“In this condition of things there were two possible courses open to the Government, namely, either to give each municipality a law of its own, or to recast, simplify, and so amend the existing law as to give it greater flexibility and elasticity, and thus bring it into a more general workable condition. From the point of view of the draftsman, the former course would have presented by far the less difficulty, but there were obvious objections to this course, since the multiplicity of laws it would have introduced would have created confusion and rendered the task of efficient control on the part of the Local Government one of almost insuperable difficulty. There remained therefore only the alternative course, and in adopting the latter it was also decided that the opportunity should be taken of enlarging the powers of municipal bodies in the direction where experience had shown such a step to be necessary, of giving greater facilities for the prosecution of offences under the Act, of vesting such powers of control in the Local Government as would ensure the due performance of their duties by municipalities, of simplifying the imposition and remission of taxation, and, lastly, of introducing a simple regulation for such small townships as were not fitted for the full privileges of municipal government, but in respect to which some adequate statutory sanction was required to deal effectively with questions of conservancy and watch and ward. It was upon these lines that the Bill as introduced was framed, and it is upon these identical lines that its provisions have been subjected to fresh revision at the hands of the Select Committee. In its present form it is hoped that the Bill will be found to realise its objects, and to commend itself to the favourable consideration of the Council.

“No changes in principle have of course been introduced in the revised Bill, and for this reason, and because it was very necessary that this important piece of legislation should be completed during the present sitting of Council, at which His Honour the Lieutenant-Governor of the Punjab could be present and afford the Council all the benefit of his vast experience and knowledge of the requirements

[*Mr. Rattigan.*]

[8TH OCTOBER,

of his province, it has not been thought necessary to re-publish the Bill. The Select Committee has not, however, hesitated to simplify throughout the wording of the sections in the original draft and to re-arrange their order, wherever such a course appeared to be desirable and to effect an improvement in the general construction or language of the Bill. These formal alterations are fully enumerated and explained in the Report of the Select Committee, and I need not trouble the Council with any further reference to them. It will be sufficient if I notice in this place a few of the other more important alterations which have been introduced in Select Committee.

"Beginning with the first chapter of the Bill, it will be seen that we have struck out the proposed definition of animal as meaning 'any creature other than a human being' as likely to lead to some inconvenient results which were probably overlooked in the original drafting. Thus in section 100 of the Bill as introduced a very suitable provision was made with respect to the disposal of dead bodies of animals. But if the term 'animal' was to receive the interpretation given to it in the definition section, it would necessarily include rabbits, hares, game birds and poultry of various kinds; and the carcasses of all such 'animals,' although they may have been slaughtered for domestic consumption, would have been obliged to be conveyed within twenty-four hours to a place fixed by the committee for the disposal of the dead bodies of animals, or to be otherwise disposed of as the committee might direct! Such an interference with the domestic culinary arrangements of private households was a matter which the Select Committee did not think was within the range of practical legislation. It was accordingly determined to strike out the general definition as unnecessary, and to substitute a special definition in section 100 of the Bill for the purposes of that section only, which would secure the object the Bill had in view and yet not unnecessarily deprive the inhabitants of municipal towns of the produce of their domestic farmyards.

"So again in section 52 and section 151 (now section 150) we have introduced, in the interests of the public, certain alterations which will enable the Local Government to empower any officer to hear and determine appeals under the Act, as it thinks fit. By this provision the inconvenience will be avoided which persons desirous of appealing might suffer if they were obliged, in the specified cases, to seek the Commissioner, who is usually a follower of the peripatetic school, and is seldom found, in the cold season at all events, at his head-quarters.

1891.] .

[*Mr. Rattigan.*]

"Similar considerations in favour of public interests have induced us to amend the provisions of clause (g) of section 120, which, as originally drawn, declared an order passed for the confiscation of inflammable or explosive material found in a house in excess of the authorised quantity to be 'not open to appeal.' Such a provision did not appear to be just having regard to the nature of the penalty, and we have altered it by allowing an appeal. We have likewise made provision for an appeal in the case of orders passed against agriculturists for not providing proper house-scavenging, as it did not appear to us that orders of this kind should be final in the first instance. Both these alterations have received the full concurrence of the Punjab Government.

"So also in section 104 the Select Committee has introduced certain words which it is believed will render the section less likely to operate harshly on the owners of buildings within a municipality. It is certainly very desirable that municipalities, especially those situated in hilly tracts like Simla or Murree, should have the power of prohibiting the lighting of fires in the top storey of certain buildings. Such a power is needed in the interests of the public for the prevention of fires in localities, like bazars, where buildings adjoin one another, and are of a construction which renders them easily inflammable. But at the same time the power is one that ought clearly not to be permitted to be exercised, interfering as it would do with the liberty of the subject in what would ordinarily be regarded as the legitimate use of one's own property, except in so far as it may be absolutely necessary for the protection of the public interests. To that extent only it is right and proper that the interests and liberty of the individual should be subordinated to and controlled by the larger interests of the public; and the Select Committee has endeavoured not to enlarge this general principle in the alterations it has made in the wording of this section.

"Again, lovers of dogs will not perhaps regret that the Select Committee does not recommend the retention of the section empowering all dogs in streets—a term which has a wide signification in the Bill—to be muzzled during any period not exceeding six months. Such a provision may be salutary in large cities in Europe where dogs are the private property of individuals, and where it is possible to enforce it. But the Select Committee is of opinion that a similar provision would not be of any practical value in a country like India, where ownerless dogs abound in all cities, towns and villages. It would be impossible to require such dogs to be muzzled, and, so long as they were uninterfered with, it would be of little use enforcing the provision in the case of other dogs. To make the proposal at all effectual, it would be necessary to cause the wholesale destruction

[*Mr. Rattigan.*]

[8TH OCTOBER,

of pariah dogs. But such a wholesale destruction of animals, not altogether devoid of use in native towns and villages, would partake of some barbarity, and would be scarcely justified by the possible—but by no means certain—prevention from rabies which the compulsory muzzling of private dogs might ensure. The Select Committee has accordingly felt itself unable to adopt the provision in the Bill as introduced, as it was undesirable to prescribe a rule which was not capable of general application, more especially as its introduction would undoubtedly have been considered by a large section of the public as a piece of unnecessary cruelty imposed under the sanction of the Legislature. I would only add that the non-retention of the proposed provision meets with the entire approval of His Honour the Lieutenant-Governor of the Punjab.

“ The Select Committee has also altered the wording of section 138 so as to make it clear that the destruction of dogs *suspected* of suffering from rabies is only to be resorted to when there are reasonable grounds for such suspicion; and it has enabled the committee to cause suspected dogs to be confined for such period as it may deem necessary when their immediate destruction is not called for.

“ To pass from measures for the protection from rabies to measures controlling the power of taxation may seem perhaps to indicate a somewhat rapid and singular transition of ideas. But, startling as the assertion may seem at first sight, there is not wanting, I think, a certain affinity between the two subjects, for both sets of measures refer to matters which, left uncontrolled, are certainly maddening in their results, and from this point of view I trust I may be excused for noticing next in order the provisions of the Bill, as now amended, regulating the power of taxation. The two subjects, moreover, have this further element in common that both appear to fall into the category of those questions which, as Mr. Ruskin remarks, ‘ need for their right solution at least one positive and one negative answer, like an equation of the second degree.’ For instance, from the point of view of a lover of dogs or of the individual tax-payer, the matters to which I have referred would no doubt require to be dealt with from a standpoint which would most likely involve the exact negation of that which would be called for in the interests of the community. But, while fully recognising the possibility of both an affirmative as well as a negative answer being given to the problems which presented themselves to us in matters touching the imposition and realisation of taxes, we have endeavoured to handle the subject in a manner which would give reasonable protection and relief to the individual tax-payer, and at the same time afford to the body representing the community all needful means and facilities for discharging its own duties and obligations. Thus, on the one

1891.]

[Mr. Rattigan.]

hand, the Bill before the Council contains a series of important provisos to sub-section (8) of section 45, by which it is declared that no tax shall come into force until its imposition has been notified and not less than three months have expired from the date of the meeting at which its imposition is directed, and that taxes leviable by the year shall come into force on certain specified dates. The first two of these provisos will, it is believed, afford sufficient guarantees that no tax will be leviable until the persons who will be liable to pay it have had a reasonable opportunity of objecting to the same, while the third proviso embodies a convenient rule the absence of which gave rise to some trouble under Act XIII of 1884. On the other hand, section 55 in making it the duty of every inhabitant to furnish such information as may be necessary in order to ascertain whether he is liable to pay any municipal tax, and section 70 in providing a penalty for the evasion of payment of octroi, are intended to supply omissions in the existing Act and to strengthen the hands of the municipal committees in working the provisions of the Act relating to taxation.

“Again, in the matter of remissions in whole or in part of assessed taxation, the Bill as now amended will, it is believed, be found to adjust the rights of both parties on a satisfactory basis. The primary rule adopted in section 62 is that, if property assessed to a tax which is payable by the year or by instalments remains unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the amount of the tax or of the instalment, as the case may be, shall be remitted. But, in order to protect the committee from being defrauded of any tax that is justly due, a proviso has been added that no remission shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the committee within the first month of the period in respect of which it is so claimed. The object of this proviso is to ensure that the committee will have early notice of the grounds of any claim for remission, so that it may be able to take such measures to safeguard its own interests as it may deem desirable. Sub-section (3) has also been added in the interests of the committee to make it quite clear that the burden of proving the facts entitling any person to claim a remission shall in every case lie upon him. On the other hand, sub-section (2) is intended to supply an equitable relief to the tax-payer in cases which under the existing law are unprovided for. It may often happen that property assessed to a tax may be unoccupied and unproductive of rent for a period short of the entire period for which the tax is payable. To take an extreme case—a house assessed to a tax payable by the year may be unoccupied and unproductive of rent for eleven

[*Mr. Rattigan.*]

[8TH OCTOBER,

months out of the twelve. In such a case it would seem to be contrary to the plainest sense of justice to demand payment of the entire tax. Or, to take another conceivable case, a house may consist of separate tenements which are ordinarily used or rented as such, and there are many houses in Simla of this description, but the tax may be payable by the year in a lump sum on the whole house. Now, it may happen that one or more of these separate tenements has or have not been occupied or productive of rent during some part of the period for which the tax is payable. Here again equity seems to require that the person liable to pay the tax should obtain some remission. In order to meet such cases clauses (a) and (b) of sub-section (2) of section 62 have been added, and the committee is thus placed in a position of making such remission as it thinks equitable, when the property has not been occupied or productive of rent for any period not less than sixty consecutive days. This latter period has been adopted from other Municipal Acts as supplying a reasonable limit within which no claim for remission should be sustainable. But here, again, to prevent the added provisions from being applied to cases where, as in Simla and in other hill sanatoria, houses are only occupied during a certain portion of the year, although the rent obtained is intended to cover the occupation for the whole year, the Select Committee has inserted sub-section (5), which declares that a house shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether the house is actually occupied by the tenant or not. This sub-section will accordingly prevent a person from claiming a remission on the score of his house having been unoccupied—say from January to April or from November to the end of December—where the rent actually realised was intended to cover the occupation for the whole year.

“ In Chapter VI of the present Bill several sections have been newly added and others have been considerably altered with the object of enlarging the powers of municipal committees in those directions where such bodies can most usefully act in the general interests of the community. Thus in the matter of the erection or the re-erection of buildings, section 88 of Act XIII of 1884 has been found in practice to be defective in several respects. It does not, for instance, prescribe any limit of time within which a person who gives notice of his intention to erect or re-erect a building, and who has not been prohibited by the committee from carrying out his intention, must proceed with such erection or re-erection, and the consequence has been that buildings have been commenced to be built or rebuilt at periods long after the committee had received notice, and when, owing to the physical condition of things in the neighbourhood having

1891.]

[*Mr. Rattigan.*]

meantime undergone considerable change, it was most undesirable that a building of the kind for which notice had been given should be erected or re-erected. In growing localities the necessity of some such limit of time must be obvious in order to prevent overcrowding. Sub-section (6) of section 92 of the Bill now before the Council accordingly introduces such a limit, which it is believed is reasonable in itself and will meet the difficulty that has hitherto been felt. Again, the proviso attached to section 88 of the existing Act imposed the liability on the committee of paying full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building. Now, it seems fair enough in principle that an owner of property who wishes to rebuild a portion of that property which may have fallen down, or which may be in a ruinous or unsafe condition, and the rebuilding of which may materially affect his comfort or the value of his property, should be compensated for any damage he may sustain in consequence of the committee's prohibition. But it is by no means as equally obvious that similar compensation should be given when the prohibition relates to an entirely new building, although it is right that some check should be placed on the arbitrary exercise by committees of such a power of prohibition. The present Bill therefore limits the right of an owner to demand compensation to the case of a refusal to allow him to rebuild, but in section 150, clause (b), the right of appeal is given to him if he feels himself aggrieved by the order of the committee. Provision has also been made for the submission of such plans and specifications as the committee may, by bye-law, require, without which it would often be impossible for a committee to exercise its powers under the section in an intelligible manner, while the previous confirmation by the Local Government of any such bye-law required by section 146 (1) of the Bill will prevent any such bye-law from being oppressive. In this manner the Bill endeavours to supply defects in the corresponding section of Act XIII of 1884, and at the same to provide proper safeguards for the protection of private interests.

" So also in giving committees power to regulate the manufacture, preparation, and sale of food and drink (section 137), to prevent the storage of excessive quantities of petroleum or other inflammable material (section 105), to require information of infectious diseases (section 139), to cause the removal of persons suffering from such diseases to a hospital or other place set apart for the treatment of the same (section 140), to prohibit the use of unwholesome water (section 141), and to establish and maintain fire-brigades (section 172), the

[*Mr. Rattigan.*] *

[8TH OCTOBER,

Bill is a distinctly progressive measure, and far more complete than the existing Act. Without a potential power to deal with such matters, the committees of large cities and towns would be likely to be impeded in affecting sanitary and other reforms upon which the health, safety or convenience of the public may largely depend.

"But in a province where the people have as yet little experience in the art of self-government, where municipalities exist varying from those containing 500 to those containing over 189,000 inhabitants, and where very divergent habits and customs also exist, it is essential that the principle of the division of

* L, XI, Chapter IV.

power formulated by Montesquieu* should be carefully maintained, namely, that, 'in order that power may not be abused, it is necessary to arrange things in such a way that power shall check power.' With this object the Bill, while, as I have pointed out, considerably enlarging the powers of committees, has not omitted to vest the Local Government, Commissioners of Divisions, and Deputy Commissioners of Districts with ample powers of control. The general public has thus a guarantee that municipal committees will not be permitted to abuse the larger powers which have now been conferred upon them, but will only be allowed to exercise them in the interests and for the general welfare of the public. Nor again need there be any apprehension that the administration of municipal affairs will be unduly interfered with by Commissioners and Deputy Commissioners. These officers have been exercising substantially similar powers to those given by the Bill under the existing law, and there is no reason to suppose that they will exercise them in the future, any more than they have in the past, except in cases of real necessity. And after all there is the safeguard, which the present Bill maintains, that any interference on the part of the officers named must be forthwith reported to the Local Government, which then has it in its power of immediately rectifying any injudicious interference by modifying or rescinding the objectionable order.

"In Chapter X of the Bill provision is made empowering a committee to authorise persons to prosecute either generally in regard to all municipal offences, or particularly in regard only to specified offences or offences of a specified class. Such a provision is much needed and will greatly facilitate the institution of prosecutions, which, under the existing law, often involves considerable trouble. The power given by section 186 to the Local Government to empower the president, vice-president or a sub-committee of the committee of a municipality of the first class to compound offences is also a new provision, and if worked judiciously ought to prevent many prosecutions of a trivial character, which otherwise

1891.]

[*Mr. Rattigan.*]

could not be avoided, from being instituted or proceeded with to a final judgment. The principle of permitting offences of a certain kind not affecting society at large to be compromised, as well by private persons as by public officers, is not, however, a new one. It is recognised in section 345 of the Criminal Procedure Code, in section 67 of the Forest Act and in section 13 of the Salt Act of 1882; and as the power can only be conferred on a committee of a municipality of the first class, and exercised either by the committee itself or by its president, vice-president or a sub-committee appointed by it, it is not a provision which is likely to lead to any abuse, and, if it does, we have added words to sub-section (5) which will enable the Local Government to withdraw the power.

"My Lord, I fear I have already trespassed largely on the patience of the Council, but I must beg its indulgence a little while longer, for there are still some provisions of general importance in the Bill which I cannot omit to specifically mention.

"One of these provisions is that contained in clause (d) of section 144, by which the committee of a municipality wholly or in part situated in a hilly tract is empowered to make bye-laws for rendering licenses necessary within the municipality (a) for persons working as job-porters for the conveyance of goods, (b) for animals or carriages let out on hire for a day or part thereof, and (c) for persons impelling or carrying such carriages. That licenses are necessary for animals or carriages let out for hire no one, I imagine, will deny, and I need say no more as to this provision. But, with respect to the requirement of licenses in the cases provided for by clauses (a) and (c), the question, I admit, is a debatable one. It seems to me, however, that the true justification for requiring licenses from the classes of persons referred to in clauses (a) and (c) lies in the comparative scarcity of such unskilled labour in hill-municipalities like Simla and Murree, and the necessity that has been felt in consequence of exercising some control over persons of the classes mentioned. The absence hitherto of any power of control has given rise to loud complaints in several of these hill-municipalities, and the existing condition of things is such as to call for special measures in the interests of the general community. Looking, therefore, at the exceptional circumstances which in hill tracts hedge in the question of legislative interference in a matter of this kind, it is, we think, not a question which can be determined by the application of English or European generalizations, which are only calculated to play us false, but rather with reference mainly to the local conditions affecting the general comfort and convenience of the inhabitants in whose interests the introduction of licenses is proposed.

[Mr. Rattigan.]

[8TH OCTOBER,

"The necessity for requiring such licenses has already given rise to special legislation in Bengal. Thus, the Darjeeling Coolies Act, V of 1883 of the Bengal Council, was expressly enacted to provide for the registration and control of porters and *dandiwallas* in the Darjeeling and Kurseong Municipalities in consequence 'of the rapacity and insolence of the coolies, and particularly of the *dandimen*, of Darjeeling having reached a point as to form a serious menace to the popularity and prosperity of that sanitarium.' (See Proceedings of the Council of the Lieutenant-Governor of Bengal, Vol XIV, page 41.) With the example of this legislation before it, which, it has no reason to suppose, has operated harshly upon the classes affected by the Act, the Select Committee has felt less hesitation in retaining the provision to which I have referred. In dealing with a question of this kind, it must not be forgotten that the protection of the rights of individuals is not the only purpose of a State, or interference with a private right the only evil it has to guard against. The State has also to fulfil certain other important tasks in the various departments of intellectual and economical existence, and the supreme end of all law and order is the well-being of the citizens of the State. So, in the present instance, the well-being, comfort and convenience of the general community in these hill-municipalities seem to require some such restriction as that which the Bill proposes to impose on job-porters and *jhampanis* hired by the day. It should be added that as licenses can only be required by a bye-law, and all bye-laws made, as this must be, under Chapter VI, must, before they come into force, receive the confirmation of the Local Government, there is a tangible guarantee that no such bye-law will be permitted to prevail which is either prohibitive or otherwise oppressive.

"Another provision which calls for special mention, and which may possibly be regarded in some quarters as an unwarrantable conversion of a mere breach of contract into an offence, is that contained in sub-section (2) of section 203. But here, again, legislation of the kind proposed is needed with reference to circumstances of a special character which justify departure from the general rule—perfectly sound in itself, but open to certain exceptions—that a breach of contract of service is merely the subject of a civil action for damages. It must be remembered that sweepers employed by a municipality belong to a class of servants whose functions intimately concern the public health, and they are as a class persons from whom it is exceedingly improbable any damages can be obtained. Now, such persons would not be deterred from committing a breach of contract by the mere civil consequences of such a breach. On the other hand, the wrong committed by them might result in the most serious consequences to the community, for which

1891.]

[Mr. Rattigan.]

the most exemplary damages would afford no adequate reparation, even if the delinquents could pay such damages. But, to quote the language of the Indian Law Commissioners in their Report on Chapter XIX of the Indian Penal Code, 'the whole property of the delinquents would probably not cover the expense of prosecuting them civilly.' Under these circumstances breaches of contract by persons of the above description appear to fall within the class of admitted exceptions to the general rule to which I have adverted as very likely to cause evil such as no damages can repair, and which may therefore, to quote again the language of the Law Commissioners, 'with strict propriety, be treated as crimes.' They have been treated as such in other provinces (*vide* section 188 of the Bengal Municipal Act, 1884; section 453 of the Calcutta Municipal Consolidation Act, 1888; and Bombay Act V of 1890), and there is no reason why they should be treated otherwise in this province. I am assured both by the present Vice-President and by the Secretary of the Simla Municipality that the inconveniences arising from sudden refusals on the part of municipal sweepers to perform their duties has been greatly felt this summer, and with the example of such strikes as those which occurred in the City of Bombay in 1889, which led to the passing of the Bombay Act, V of 1890, and to a similar strike which my hon'ble friend, Sir Philip Hutchins, informed the Council last Thursday had just occurred in Burma, it is right, I think, that we should provide by anticipation against a contingency which might at any time expose any large city or municipality in this province to the greatest risk of pestilence or other serious injury. As observed by Sir Raymond West during the debate on the Bombay Act, 'the line between the penal and the civil mode of dealing with injuries and misconduct is entirely arbitrary;' and as in the case of all other laws, so in the present case, what the legislature has to look at is the furtherance of the general good of the community. If that consideration requires that we should restrict the liberty of the individual, or visit with penal consequences breaches of contract, sound policy and sound juridical principles alike sanction recourse to such legislation. For these reasons, the inclusion of a provision such as that contained in section 203 seems to be absolutely necessary in a Bill which is intended, like the present, to regulate municipalities in the Punjab. It has indeed been pressed upon us that this provision does not go far enough, and that sweepers as a class should also be required to take out licenses like job-porters and *jhampanis* hired by the day. But recognising, as we feel bound to do, the general principle that restrictions on the labour market should only be resorted to when the general interests of the community render such a course *absolutely necessary*, we have not been convinced that any such necessity exists to justify the proposed restriction

[Mr. Rattigan.]

[8TH OCTOBER, .

on sweepers as a class. To punish such persons of this class as are employed by a public body like a municipal committee for a breach of contract of service likely to result in serious public injury is defensible enough on the grounds I have already stated. But the introduction of a system of licensing sweepers as a class involves considerations of a far wider character, and would, we think, cause considerable public irritation if adopted. To render any such system effectual, it would require to be extended to *all* sweepers within municipal limits. Private employers would, however, have just reason to complain that a system which prevented them from employing whom they liked for their own domestic services was a very serious invasion on their civil rights, while sweepers would equally be entitled to complain of harsh treatment if they were prohibited from seeking service except on condition of possessing a license which was capable of forfeiture at the will of a municipal committee. A restriction of this kind could only be justified on the strongest public grounds, and we are not satisfied that any such grounds can be shown to exist. It appears to us that as regards private sweepers the ordinary remedy which the law allows for non-performance or negligent performance of duty is sufficient for all practical purposes, while as regards sweepers employed by committees the provision of the Bill rendering breaches of contract of service penal in the absence of a specified notice affords all the additional remedy that is needed to guard the public against any risk of pestilence or other serious injury resulting from a sweeper strike. The sweeper must be very different to every other human being if liberty, though cheered with only the proverbial Horatian crust of bread, is not as sweet to him as to any other individual, and the risk of incurring incarceration in a common jail for a period of two months, with all its attendant inconveniences, will, we are assured, act as a sufficient deterrent to prevent him from committing any breach of a contract which he may have entered into with a municipal committee. In the case of job-porters and *jhampanis* hired by the day, the matter stands on a very different footing. These persons are not servants, and they cannot be made amenable, like sweepers employed by a municipality, to criminal punishment for their rapacity. But at the same time they are persons who enjoy a sort of monopoly of labour of a particular kind; the public is obliged to employ them and is at their mercy, liable to extortion and insolence at their hands. Here then there is an obvious necessity for some expedient to check their demands and to control their conduct in the general interests of the public, and a system of licenses is perhaps the most suitable expedient that can be adopted. For these reasons the Select Committee has not felt itself able to recommend the adoption of the proposal to which I have referred.

1891.]

[*Mr. Rattigan.*]

"Section 204, as the Council is already aware, has been inserted in the Bill in consequence of an urgent representation from an influential section of the inhabitants of Lahore, and is based on the provisions of a repealed Act, XXI of 1857, section 7, subsequently embodied in section 17 of Bengal Act II of 1866 and in section 43 of Bengal Act IV of 1866. It deals with a branch of a much larger question, but, so far as it goes, the section appears to be unobjectionable, and to be called for by a popular demand.

"Section 209 is intended to quiet doubts as to the legality of the house and frontage taxes which have been levied in the municipality of Simla since 1885. The circumstances which gave rise to these doubts are fully explained in the following extract from a memorandum prepared at my request by my friend Mr. Thomson, the Revenue Secretary to the Government of the Punjab, to which I have nothing to add:—

'When Act No. XIII of 1884 was passed and made applicable to the Simla Municipality, all taxes then in existence there were continued in force by section 52 of the new Act, except in so far as they might be inconsistent with the provisions of the latter.

'Another section of the same Act—No. 161—gave the Local Government power to continue in force, subject to certain conditions, all rules, regulations or bye-laws made under the former law of 1873. Accordingly, in the exercise of this power the Local Government published Notification No. 804 of 23rd October, 1884, which continued in force in Simla a number of election, sanitary and fiscal rules made under the Act of 1873. The provisions of this latter Act were of a general kind, and so it happened that the fiscal rules framed under it not only regulated the date and place of payment and other like matters, but actually imposed the taxes themselves. Rules imposing taxes could not, of course, be continued by any action under section 161 of the Act of 1884, and the notification was, it is believed, so far *ultra vires*. But this point was either overlooked at the time, or, what is perhaps more likely, it was judged better for the sake of clearness to re-publish the rules as a whole, even though some of them had necessarily become inoperative. The taxes themselves were, of course, continued independently under the operation of section 52.

'Recently the Simla Committee desired to introduce some amendments into their house-tax, and they attempted to do so by proposing an amendment of the fiscal rules continued by the notification published under section 161. The state of the case then at once became apparent. It was pointed out to the Committee that these rules, so far as they purported to impose taxes, had in reality not been continued by the notification under section 161, that the house-tax was really in force under the provisions of section 52, and that if it was to be amended it must be amended by action under Chapter III of the same Act. The Committee recognised the correctness of this view of the law, but they expressed some apprehension lest the discovery that some of the fiscal rules were a dead-letter might not lead to trouble and litigation. In deference, therefore, to the

[*Mr. Rattigan ; the Lieutenant-Governor.*]

[8TH OCTOBER,

apprehensions of the committee, as an amending Municipal Act was actually under consideration, it was resolved to introduce into it a section giving an additional statutory protection to the Simla house and frontage taxes which are really in force under section 52 of Act XIII of 1884, but have hitherto been erroneously supposed to be in force under Notification No. 804 of 23rd October, 1884.

"It only remains to refer to Chapter XI of the Bill, which, as its title indicates, is intended to apply to small towns in respect to which the main provisions of the Bill would not be suitable. Section 210, it will be seen, empowers the Local Government to constitute what are termed 'notified areas,' and section 311 enables the Local Government to impose taxation and regulate expenditure in such areas, while section 212 authorises the extension of any provision of the Act to any such area as may be deemed suitable thereto, and section 213 gives the Local Government power to cancel any notification under section 210. Ample provision is thus made for the extension of a modified form of municipal administration to 'notified areas,' and this chapter is a necessary complement to any scheme of legislation affecting municipalities in the Punjab.

"I have now gone through some of the more important provisions of the Bill, and what I have said will, I trust, satisfy hon'ble members that it is generally calculated to meet its requirements. The Select Committee cannot, of course, hope that the Bill, if passed, will be found to be so complete that the law may need no further amendment. In a fast growing province, with a wide scope for still further development in the future, and with a population for the most part active and vigorous, time must bring changes which may necessitate a further expansion of municipal government. New circumstances must arise to which measures must then be moulded. But what we may, I think, reasonably hope for is that the Bill as now amended will meet all existing requirements, and will be found to contain within itself all the necessary elements to satisfy any further expansion of municipal institutions in the Punjab which the future is likely to develop.

"My Lord, I have to apologise for the length of time I have occupied your attention, and I will only say, in conclusion, that it has been a great satisfaction to me to find myself engaged on so important a piece of legislation, affecting a province to which I am greatly attached, on the very first occasion that I have been called upon to take an active part in the business of this Council."

His Honour THE LIEUTENANT-GOVERNOR said :

"After the very full observations which have been made by my hon'ble friend, Mr. Rattigan, it will only be necessary for me to say a very few words,

1891.]

[*The Lieutenant-Governor.*]

particularly as he has kindly referred to my full concurrence in the various changes made in Committee on the Bill. I wish to say that I shall assent with full confidence to the Motion which will be presently brought forward that this Bill be now passed. The changes which it will make in the present law seem to me, so far as they go, calculated not only to facilitate municipal administration, but to enlarge and strengthen it. I have observed that suspicions were at one time expressed in some quarters that the new measure was to be retrogressive in character, and that it would put the committees more into leading strings than before. This idea of the scope and objects of the measure will, I hope, be seen to be quite inapplicable to the Bill both as introduced and as it now stands. The new provisions which we propose to enact do not involve the comprehensive working out of any new principle. They are merely supplementary to the present law. Modest as they are in plan, their general tendency, almost without exception, is not to curtail municipal action, but to confer greater power and increased responsibility upon municipal committees. In fact, this development of function is so considerable that in some instances it is only the most advanced municipalities which will be able and willing to undertake all the duties which the law permits to be entrusted to them. To meet this condition of affairs provision has been made that several sections of the new law shall only operate in a municipality when specially extended thereto by the Local Government, and the exercise of this power by the Local Government is itself made subject to an initial action on the part of the committees, so that no municipality can be placed under any of these sections except on the request of its own representative body. The committees are thus practically receiving power to decide whether they will adopt certain provisions of the law or not. This is not only a substantial increase of authority, but will have perhaps some tendency to raise the level of municipal debate. The dry succession of executive details may be enlivened by a deliberation as to whether it is on principle desirable to undertake a new duty and incur a new responsibility. The Local Government, indeed, retains a negative voice, but this check will in practice be a check for the people and not on the people. It is never likely to be exercised in regard to any well-considered request for an extension of function based upon general popular consent. But, if any over-zealous committee were to attempt to introduce into a town advanced arrangements for which it was not ready or fit, the Local Government would probably feel disposed to protect the alarmed inhabitants from the too hasty energy of their representatives.

[*The Lieutenant-Governor.*]

[8TH OCTOBER,

"Sections 7 and 8 in the Bill have at first sight a somewhat drastic appearance. It may therefore be as well to explain what their exact force really is. Under the law as it now stands the Local Government has power to regulate the number of elected and appointed members upon a committee as the public interests may require. The new Bill makes no change in this respect, but sections 7 and 8 are intended to provide that this power shall not become practically ineffectual through delay. At present the Local Government may decide that the public interest requires an elective in place of a nominated committee. But so long as the nominated members hold their seats, it cannot order a single election. And this hindrance to the change of system deemed advisable may endure for three years. Similarly, the state of feeling in a town may be such as to render it absolutely necessary to suspend temporarily the operation of the elective system, and to appoint a nominated committee. Here again, as the law at present stands, if elections have been recent, a change immediately desirable might be postponed for several years. This state of matters is clearly in need of amendment. In fact, sections 7 and 8 are rather sections of procedure than sections of substantive law. No increased power of decision is essentially given to the Local Government, but a process is provided under which the decisions which it can give under the powers which it already possesses can be immediately applied and made effectual. Such a process is obviously necessary.

"Of the Bill as a whole it may be said that it will be a not inconsiderable improvement upon the present Act. Chapter XI in particular (which is new) will, I think, be very useful if it is applied with proper moderation and discretion. No attempt will be made to stretch the provisions of the chapter to cover doubtful cases, or to harass communities which are essentially rural or agricultural with unsuitable and injurious imitations of municipal institutions. If these precautions are observed, and if we are content with slow and steady progress, I have little doubt that without arousing any discontent measures will be taken under this chapter by which the health and comfort of many small towns in the Punjab will make substantial progress.

"I only wish to add that, being responsible for the original draft of this Bill, which is so closely connected with the daily life of the townspeople of the Province, it has been to me, and I believe to the educated townspeople of the Province, a source of satisfaction and confidence that the Council in dealing with the measure has had the assistance of my friend Mr. Rattigan. For by his long experience of the Punjab, more especially in regard to the life of its great cities,

1891.]

[*The Lieutenant-Governor ; Sir Alexander Miller.*]

he is peculiarly well fitted to act as the guardian of popular interests and the exponent of popular wishes in all matters connected with municipal administration."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"I have been asked by my hon'ble friend Mr. Rattigan to move an amendment for which I believe, as no notice has been given of it, I must obtain the consent of the Council to move without notice. It has been represented that committees may be put into some difficulty by reasons of persons liable to pay taxes, such as occupiers of houses and the like, in any municipality, leaving the municipality without paying such taxes and taking all their property away with them, and that, as the law stands, or as it would stand if this Bill be passed as it is framed by the Select Committee, there cannot be any remedy against such persons except by a civil action in the district in which they may be resident. It has been suggested to us—and the Select Committee are agreed that it would be a desirable amendment, and one which if it had been brought to their notice in time would have been made by them—that the law should be extended so that the same remedy should be given in the place where the defaulter is found as the committee would have had if he had continued to remain in the municipality. It is therefore proposed to introduce certain words in section 201 of the Bill in order to meet such cases. By section 201, 'any arrears of any tax or fee or any other money claimable by a committee under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.'

"I propose to alter that in this way:—after the word 'municipality' to add 'or in any other place where the defaulter may for the time being be resident,' and instead of the words 'within those limits belonging to the person from whom the money is claimable' to substitute the words 'within the limits of his jurisdiction belonging to such person.'

"The only result of this amendment will be that if a man should leave a municipality without paying his taxes, and go elsewhere, he will be made liable to pay them by the Magistrate of the district instead of its being necessary first of all for the municipality to establish a right to the taxes, and then to bring a civil suit founded on that decision for their recovery—a proceeding which, I need not say, is attended with a good deal of circumlocution which it is very desirable to remedy."

[*Sir Philip Hutchins; Sir Alexander Miller; Mr. Rattigan.*] [8TH OCTOBER,

The Hon'ble SIR PHILIP HUTCHINS suggested the desirability of omitting the word "defaulter" and of substituting for it the words "the person from whom the money is claimable."

The Hon'ble SIR ALEXANDER MILLER said that the word "defaulter" was used elsewhere in the Bill, but he saw no reason why the suggestion made by the hon'ble member should not be accepted. The sentence would therefore run "or in any other place where the person from whom the money is claimable may for the time being be resident."

The amendment was then put and agreed to.

The Hon'ble MR. RATTIGAN moved that the Bill, as amended be passed. He said that the several provisions of the Bill had already been so fully dealt with that he did not think it necessary to say anything further in support of this motion.

The Motion was put and agreed to.

LOWER BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Report of the Select Committee on the Bill to amend the Lower Burma Municipal Act, 1884, be taken into consideration. He said:

"The first section of the Bill merely contains a few definitions to which no exception has been taken.

"The second provides for the levy of tolls on vehicles and animals entering the municipality. It seems that some people keep their carriages outside municipal limits, and thus evade payment of what is popularly called the 'wheel-tax.' The only way of meeting the difficulty appears to be to levy tolls on all vehicles entering the municipality, except such as have paid the regular tax. This is the system which prevails throughout the Madras Presidency, and it seems eminently fair. Section 8 of the Bill contains a subsidiary provision regarding the exhibition of tables of tolls.

"Section 3 merely extends the power of the municipality to incur any expenditure which the Local Government may consider proper, even though it may not be obviously and immediately calculated to promote the welfare of the inhabitants.

1891.]

[Sir Philip Hutchins.]

"Section 5 will only come into force in municipalities to which the Chief Commissioner may see reason to extend it by a special notification. It is designed to enable the committee to regulate the mode of constructing buildings and forbid the use of dangerous materials in crowded towns.

"Sub-section (4) of the fourth section defines the expression 'erect or re-erect any building.'

"All these provisions are identical with corresponding clauses in the Punjab Bill which the Council has just passed into law.

"The other sub-sections of section 4 relating to the erection of new buildings are very nearly identical with provisions in the Punjab Act, and the same remark applies to section 6 and the first two sub-sections of section 7, which deal with privies. No objection has been taken to any of these clauses, and the Chief Commissioner considers them better adapted to Burma than the somewhat more elaborate provisions of the Act just passed.

"Only sub-sections (3) and (4) of the seventh section remain, and to these certain objections have been put forward. Shortly stated, the former imposes on house-holders the obligation, upon the requisition of the committee, to connect their premises with the municipal sewers, while under the latter the connection must be carried through any intervening land unless the Government or other proprietor of such land refuses to allow this. The obligation, however, will only extend to houses situated within one hundred feet of a sewer, so that no unreasonable expense will be entailed on the owners of house-property.

"It has been urged that the obligation is a novel one, and that it is not imposed on the inhabitants of the presidency-towns, the conditions of which are very similar to those of Rangoon; but hon'ble members, if they refer to the margin of sub-section (3), will see that it is taken (and it has been adopted almost *verbatim*) from the Madras Municipal Act of 1884. The objectors have referred more particularly to the Bombay Act, but that also recognizes very much the same principle. It obliges all house-holders to remove to a municipal receptacle or depôt the filth collected on their premises, unless the Commissioners elect to do this by their own servants, in which case a scavenging-tax is levied. It is the duty of all municipalities to provide for the ultimate removal of filth which has been deposited in public depôts, and they do this either by sewers or by a special service; but everywhere it rests on the house-holders to provide for the conveyance of the filth from their premises to the

[Sir Philip Hutchins.]

[8TH OCTOBER,

depôt or sewer, and, where there is such a drainage-system as has now been established in Rangoon, this can only be done satisfactorily by means of a drainage-connection.

"It has been urged that certain inveterate habits of the Burmese which I need not here particularize will prevent the drainage-system from working satisfactorily, and that in that case the construction of connections will only cause useless expenditure. Hon'ble members have doubtless read Major Temple's memorandum on this subject, and will probably agree with the Chief Commissioner's opinion that it has sufficiently disposed of the objections raised. It will be seen from Mr. Man's representations, made on behalf of himself and other house-holders of Rangoon, that he asks no more than that power be reserved to the Chief Commissioner 'to stay the municipal hand' until he is satisfied that the drainage will be effectual. This request seems reasonable enough, and we have accordingly provided that the two sub-sections in question shall only be applied to particular municipalities by a special order of the Chief Commissioner. All rules regarding the manner in which drainage-connections are to be made or maintained will also require the approval of the Local Government."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS said:

"I have now to propose two amendments in the Bill as reported by the Select Committee. I gave notice of them last week, when I also stated the reasons which make them desirable. The first amendment is that for section 7 of the Bill, as amended, the following section be substituted, namely:

Substitution of two new sections
for section 92, Act XVII, 1884.

"7. For section 92 of the said Act the two sections
following shall be substituted, namely:

'92. (1) The committee may, by notice, require the owner or occupier of any building or land to close, repair, alter, or put in good order any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray belonging thereto.

Closing, alteration and repair of
privies and the like.

'(2) The committee may, by notice, require any person who constructs any new water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who constructs, re-builds or opens any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray which it has ordered to be demolished or stopped up or not to be made, to demolish the water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray, or to make such alteration therein as it thinks fit.

1891.]

[*Sir Philip Hutchins.*]

'92A. (1) Where any building or land situated within one hundred feet of one of the
Making and maintaining drainage-connection with sewer or drain. sewers or drains set apart by the committee for sulliage, sewage or other offensive matter is at any time not drained to the satisfaction of the committee by any or a sufficient drainage-connection with such sewer or drain, the committee may by notice require the owner of such building or land to make and maintain a drainage-connection with the sewer or drain in such manner as the committee may, by rule made with the sanction of the Local Government, direct.

'(2) The provisions of sections 109 and 110 of this Act shall apply to any default in compliance with any such requisition notwithstanding that part of the land through which the said drainage-connection is required to pass may not belong to the person so making default, unless he shall prove that the default was caused by the act of the owner or occupier of such last-mentioned land.

'(3) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.' "

"This amendment is merely formal, the object being to show that what is now sub-section (4) of section 7 is not intended to have any effect except in connection with the preceding sub-section on which it is dependent, and in those municipalities to which this third sub-section may have been extended. The effect of the amendment is simply to cast these two sub-sections into a separate section, which is numbered 92A, with a proviso at the end that it shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee. In other respects the wording is identical with that recommended by the Select Committee."

The amendment was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS continued :

"The other amendment which I have to propose is as follows :

that after section 8 of the Bill, as amended, the following section be added, namely :

Addition of new section after section 132, Act XVII, 1884.

"9. After section 132 the following section shall be added, namely :

'132A. (1) In the absence of a written contract to the contrary, every sweeper employed by a committee shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

[Sir Philip Hutchins.]

[8TH OCTOBER,]

'(a) Should any sweeper hereafter employed by a committee in the absence of a written contract authorising him so to do and without reasonable cause resign his employment or absent himself from his duties without giving one month's notice to the committee, or neglect or refuse to perform his duties or any of them, he shall be liable to imprisonment which may extend to two months.

'(3) The Local Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to sweepers shall apply also to any specified class of servants employed by any committee whose functions intimately concern the public health or safety.'

"This amendment involves a substantial addition to the Bill, but it is an addition which every one must admit to be necessary in view of the exceedingly serious consequences which must ensue from anything like a strike on the part of municipal scavengers. A similar provision has been made in several other Municipal Acts, as has just been mentioned by my hon'ble friend Mr. Rattigan. That which I propose to adopt is copied *verbatim* from the Punjab measure which has just been approved by this Council upon his motion."

The amendment was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INLAND EMIGRATION ACT, 1882, EXTENSION BILL.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill to extend the Inland Emigration Act, 1882, be taken into consideration. He said:

"When I introduced this Bill last week, I stated that the Central Provinces seemed a promising field for the recruitment of labourers for the tea-gardens of Assam, and that the Chief Commissioner had agreed to the Act of 1882 being extended throughout the territory under his administration. The completion of the Bengal-Nagpur Railway has opened up new sources of supply of the kind of labour most wanted, for the climate of Assam suits natives of hilly tracts, such as I understand form a large part of the Central Provinces, far better than those who have been nurtured in the Gangetic Valley.

"I also mentioned that advantage had been taken of the opportunity to meet the wishes of the Madras Government, expressed some two years ago when the

1891.]

[Sir Philip Hutchins.]

Ganjam famine had caused a sudden development of emigration from the affected areas, that the Act should be made capable of being put into force in selected districts of the Madras Presidency.

"The question of thus extending the operation of the Act first came before me some months ago, but I thought it better not to undertake any measure of the kind while the working of the Act was under examination, and it remained uncertain whether the existing system would be maintained. Your Excellency and my hon'ble colleagues are aware that it has now been determined that the Act must be continued in force, and that no very radical changes are called for. I hope the amendments which have commended themselves to the Government of India will shortly be made public, and of course all modifications which may be introduced will apply wherever the Act may have been extended. In these circumstances I see no reason why this Bill should not be passed at once. It follows our settled policy of promoting emigration from areas which are either overpopulated or liable to famine to others enjoying more favourable conditions. It is a well-known fact that a very large number of the labourers recruited for Assam settle down there permanently."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned *sine die*.

L. PORTER,

SIMLA;	}	Offg. Secretary to the Government of India,
The 9th October, 1891.		Legislative Department.

G