

*Thursday,
8th July, 1897*

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

LAWS AND REGULATIONS

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ABSTRACT OF THE PROCEEDINGS
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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 8th July, 1897.

P R E S E N T :

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Honour Sir William Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency Sir G. S. White, G.C.I.E., G.C.B., V.C., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Sir J. Woodburn, K.C.S.I.

The Hon'ble M. D. Chalmers.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble A. C. Trevor, C.S.I.

The Hon'ble Sir H. T. Prinsep, K.T.

SHORT TITLES BILL.

The Hon'ble MR. CHALMERS asked for leave to postpone the motion that the Bill to facilitate the citation of certain Acts be taken into consideration. He said that certain Acts which amended Act X of 1865 and other Acts relating to succession were referred to in the Bill as amendments of the Indian Succession Law. But it had been suggested to him that they should be referred to as amendments of the Probate and Administration Law. They were already so referred to in the short title of Act VI of 1889. Under the circumstances, he would, with His Excellency's permission, postpone the motion that the Bill be taken into consideration, and at the next meeting of the Council he would make certain formal motions for its amendment in the direction suggested.

Leave was granted.

316 *AMENDMENT OF COURT-FEES ACT, 1870; REPEAL
OF CANTONMENTS ACT, 1895.*

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COURT-FEES ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR JOHN WOODBURN moved that the Bill to further amend the Court-fees Act, 1870, be referred to a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Mr. Chalmers, the Hon'ble Sir Henry Prinsep, the Hon'ble Nawab Sir Amir-ud-Din Ahmad Khan, Khan Bahadur, and the mover.

The motion was put and agreed to.

CANTONMENTS ACT AMENDMENT ACT, 1895, REPEALING BILL.

The Hon'ble MR. CHALMERS moved for leave to introduce a Bill to repeal the Cantonments Act Amendment Act, 1895, and to amend the Cantonments Act, 1889. He said :—"Perhaps I may be allowed on this motion to explain the objects of the proposed legislation.

"The Bill consists of three clauses only. The first clause is purely formal. The objects of the two operative clauses are thus set forth in the Statement of Objects and Reasons.

"The second and third are the operative clauses in this Bill. The second clause proposes to repeal Act V of 1895, which imposed restrictions on the rule-making power conferred by section 26 of the Cantonments Act, 1889 (XIII of 1889). The removal of these restrictions will restore to the Governor General in Council the power to make rules to check the spread of venereal diseases in cantonments, and will give him the same powers in respect of venereal diseases that he has in the case of other contagious and infectious disorders.

"The third clause merely extends to medical and other officers, the same protection in the performance of their duties as is already given to Cantonment authorities and Commanding Officers.

"I may deal very briefly with the third clause. It corrects what was probably a drafting slip in the Act of 1889. It will be in the recollection of Hon'ble Members that we published for criticism last year a draft code of Cantonment Rules. These rules contain a large body of sanitary and other regulations for the good government of Cantonments. Medical and other officers will have numerous duties to perform under these rules, and it is obviously fair that in the performance of those duties they should have the like protection as is already accorded to Cantonment authorities and Commanding Officers.

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"The second clause deals with much more controversial matter. For some years past we have pursued the policy of ignoring the existence of venereal diseases, and the Act of 1895 binds us to ignore them. The result of that policy has been disastrous. By the operation of these fell diseases large numbers of our soldiers are rendered unfit for service, their constitutions are permanently undermined, and many lives are lost: I will not refer to the terrible facts and figures disclosed by the Report of Lord Onslow's Committee. My Hon'ble Colleagues who represent the Army will do that if necessary. Those facts and figures imperatively call upon us to take immediate action, and this course is endorsed by the most weighty opinions that we can have on a question of this kind. I refer to the unanimous reports of the Royal College of Physicians in England and the Royal College of Surgeons. If those reports have not already been made public, I trust they will be published at once. I will quote only a short extract from the Report of the Royal College of Physicians. It says:—

'About 13,000 soldiers return to England from India every year, and of these, in 1894, over 60 per cent. had suffered from some form of venereal disease. These figures are quoted as showing more forcibly than words can, the risk of contamination, not only to the present population of this country, but also to its future generations. Of these men a number die, or, remaining invalids, are more or less incapacitated from earning their own livelihood, and thus become a burden on the rates.'

"It is unnecessary now to indicate the measures we propose to take for diminishing the spread of venereal disease and mitigating its effects. Those measures are not germane to the present motion. The object of the present Bill is merely to untie our hands. We take energetic steps to diminish the spread of small-pox, cholera and typhoid fever, and we now propose to arm ourselves with like powers to deal with venereal diseases, the most terrible of all contagious diseases in their results. The fact that we take these powers does not imply a reversion to the measures which were discontinued in 1889. Speaking for myself I should be very loth to be a party to re-introducing the compulsory examination of prostitutes. By 'compulsory examination' I mean examination under physical compulsion, or under the compulsion of the Criminal Law. But apart from compulsory examination I think it is our duty to take every means within our reach to diminish and combat this horrible disease. In selecting those means we must be guided, as in the case of any other disease, by the best expert advice we can get. When we have adopted certain measures, we must carefully watch and test the effect of these measures, and if necessary, we must modify them hereafter, so as to make them more effective.

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"I am well aware that in attempting to solve this pressing problem, we shall, in England at any rate, rouse a certain amount of opposition. Many of them who will oppose our policy will be people for whose characters we have the highest respect, and whose opposition will be founded on the highest and best of motives. It is due to our respect for their characters and motives to state explicitly the reasons which justify the changed attitude we are now taking. As regards the reasons which weigh with him, each man, of course, must speak for himself. There are several reasons, of varying weight, which appear to me to justify our proposed line of action, but they all point to the same conclusion.

"In the first place, it is our paramount duty to maintain our army in a maximum state of efficiency. If we allow large numbers of our soldiers to be rendered inefficient through preventible causes, we fail in that duty. The cost of the Indian Army falls on the people of India, and, as trustees for the interests of that people, it is our duty to see that, so far as the matter is in our power, they are not taxed for the maintenance of soldiers who are not fit to fight.

"Another reason which weighs strongly with me depends on the nature of the disease itself. Constitutional disease, not only affects the man himself, but is a potent source of danger to others. We are dealing with short service troops. Many of the men go home before they are cured, and are absorbed into the civil population. They marry, and communicate the disease to perfectly innocent women. Their children inherit the taint, and unborn generations will suffer if we neglect to take all precautions within our power. Any one who is familiar with a children's hospital in any of our big towns at home will appreciate my meaning. What right have we, by our neglect, to inflict such evils on these innocent sufferers. But the evil does not stop there. The prevalence of this class of disease largely increases the risk run by our Doctors. We have had two sad cases of this lately. Hospital nurses, who devote their lives to the care of the sick, incur precisely the same risk. Surely we ought to do our utmost to protect them from unnecessary danger.

"Then, again, the unfortunate women who communicate disease to our soldiers ought not to be debarred from skilled medical treatment. The cure of this disease essentially depends on early treatment. If they are left to themselves, they will not seek medical aid until it is too late. I have seen women brought into the Civil Hospital in Gibraltar rotten and dying from disease, who had carried on their trade until the night before their admission to the wards.

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“There is another reason that I only wish to allude to, but nevertheless I feel its force. I believe in this question we have no choice between good and evil. Of two evils we can only choose the lesser one. It may be said that we could wholly exclude all women from cantonments. I don't think this would be possible; but if it were, I think it would only lead to more horrible forms of vice. Anything is better than that. It will be said too that in our endeavours to mitigate the prevalence and effect of venereal diseases we are giving encouragement to vice. I think the experience of the last few years conclusively negatives this argument. There might be something in the argument if we were dealing with a body of middle-aged men who had received a scientific education. But we are dealing with a large body of young unmarried soldiers. We have found by experience that the risk they run in no wise overcomes the temptation to which their position exposes them. If the risk is no deterrent, this argument falls to the ground.

“For these reasons, my Lord, I ask leave to introduce this Bill.”

The Hon'ble MAJOR-GENERAL SIR E. COLLEN said:—“My Lord, the Bill, which the Hon'ble Mr. Chalmers has moved for leave to introduce, is necessary in order to enable the authorities of cantonments to deal with an evil which has greatly affected the efficiency of the British Army in India, and to protect the officers who will be charged with carrying out the provisions of cantonment rules framed with the object of reducing, as far as may be possible, under present conditions, the ravages of a disastrous disease.

“I suppose there is hardly any other subject connected with the welfare of the army which has been so closely discussed of late. The history of the question is well-known, and I need hardly remind this Council how consistent the Government of India have been in their endeavours, throughout that painful history, to protect the health of the troops, and to save unborn generations from one of the most terrible of all diseases.

“The Report of Lord Onslow's Committee—a report, if I may venture to say so, of a most dispassionate but comprehensive character—has enabled the public at home to convince itself of the existence of a deplorable state of things, and of the strength of the position which the Government of India have always taken up, while in the despatch from the Secretary of State of the 26th March, we have a lucid exposition of the policy adopted by Her Majesty's Government.

“My Lord, those who oppose the remedial measures which are indicated in that despatch, do not deny that some remedial measures are necessary, but they

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deny that these are the kind of measures which should be undertaken. They tell us that an army of 70,000 men is all but given up to reckless debauchery, and that the rulers of that army do not care about making it moral, but that they only care to make it attractive to young men, and to enable them to sin in comparative safety.

"I have been long enough in India to remember the cantonment regulations of 1864. Those regulations were the outcome of recommendations made by a Royal Commission on the sanitary state of the army in India, and were framed under the sanction of the Government of Lord Lawrence, a Government which was renowned for its conscientiousness and the strength of its religious convictions. For my part, I cannot admit for a moment that the Government of that day can be justly charged with the encouragement of vice, because they deemed it necessary to repress a virulent disease by stringent regulations. As years went on, however, abuses crept in, and practices were introduced which could not and cannot be defended.

"But in the restoration of the power to make rules to check the spread of venereal disease, which the Bill before us, when it becomes law, will give us; and in the rules themselves, there is not, to my mind, the remotest trace of the abuses which existed under the old system, or of what is called by those who object to the stringent regulations of past days, the encouragement of vice.

"My Lord, the accusations which have been made against the army can easily be repelled. I maintain that the soldiers of the present day are not one whit worse than the classes from which they are drawn, in point of morality, that they are better educated, more temperate, and better behaved, but they are mostly young men, and are thus susceptible to the influences which beset them in this land—and from which no regulations can wholly guard them—a land where prostitution is not regarded otherwise than as an ordinary condition of life, and where the profession of a prostitute is not looked upon as one of unqualified shame.

"We have been accused of merely considering the question in its relation to the checking of the disease, and of neglecting the means of improving the moral condition of the soldiers. I do not think that accusation can be persisted in, in the face of the fact that all the efforts of recent years have been devoted to raising the tone of the army by giving the soldier education, occupation, and healthy recreation, and in fostering the great temperance movement. These efforts have been strongly supported by the commanding and regimental officers of the army.

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But a man cannot be made absolutely moral or religious, or capable of the very highest self-control, by even the best efforts of the kind, or by acts of the legislature and by regulations. And if any great change for the better in this respect is to be obtained, it must be by raising the standard of purity among the classes from which soldiers are drawn. Let our opponents—those who so unjustly accuse the army of what they term reckless debauchery—look at home, where there is infinite need for an adequate treatment of the subject, and let them answer the question, whether the great body of young men in England practise the virtue of continence habitually, and whether they would say that these young men are given up to reckless debauchery, because even a large proportion of them sometimes yield to temptation. Those who object to the measures it is deemed necessary to take in India against the spread of a terrible disease, will find a great field lying open before them at home, in their endeavours to raise the standard of purity.

“ Our duty out here seems to be plain enough. It is, to do all in our power to conquer disease, to remove temptation as far as practicable, to apply restrictive measures and restraints where advisable and necessary, and to help the men to practise self-control. I believe that the united efforts of chaplains and medical and regimental officers may do a great deal to this end.

“ But when all is said and done, we are still confronted by the fact that we have an army in India which is, and must necessarily be, composed mainly of unmarried men, that a large proportion consists of very young men, placed in a country, where the conditions of life are entirely different from those existing in England, and where prostitution has, as I have said before, no extraordinary stigma of shame attached to it.

“ We believe then that it is our paramount duty to maintain the health and efficiency of the army, that the virtue of continence is not to be attained by allowing the propagation of disease, but that our efforts must be strongly directed to the lessening of a great evil.

“ The principles which are enunciated in the Secretary of State's despatch, the injunctions for the cure of disease, or the removal of the source of danger from cantonments, and the removal of temptation in the shape of solicitation, form the foundation of the measures which will be embodied in the new cantonment rules. It is absolutely incorrect to assert, as I have seen it asserted, that they constitute a return to the old state of things. They merely give the Governor General in Council the same powers, in dealing with venereal disease, as exist

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in the case of other contagious and infectious diseases dangerous to the health of the community. Our belief is that the dictates of religion and humanity alike command us to endeavour to restrain the spread of this disastrous disease, and to alleviate the sufferings of women as well as of men.

"In the earnest hope that these measures—worked, as I am sure they will be worked, with sympathetic consideration—may prove of some use in the mitigation of an appalling evil, I welcome the introduction of this Bill."

His Excellency THE COMMANDER-IN-CHIEF said:—"The necessity of repealing the Cantonment Act Amendment Act of 1895 and of amending the Cantonment Act, 1889, has become so generally recognised and acknowledged that it seems scarcely necessary to repeat here the proofs of that necessity; but that I am unwilling that a measure of such vital importance to the British Army in India should be introduced without some support from the head of that Army.

"In 1895, owing to the mistaken efforts of certain persons, actuated, I believe, by the highest motives, but without that grasp of practical considerations which would have prepared them for the disastrous consequences of their own acts, the repeal of all restrictions on the trade of prostitution was forced on the Government of India.

"From the first those more intimately acquainted with, and responsible for the health and efficiency of the Army in India did all in their power to give warning of what the effect of such sanitary neglect would be. But those warnings were disregarded, and it was even contended that such precautions and restrictions, as had been imposed in the past, had had no practical effect in preventing the spread of venereal disease amongst British soldiers in India.

"The fallacy of this argument was not long in showing itself. The restrictions which the Military Authorities had previously been able to impose had scarcely been removed before the prevalence of contagious disease in the British Army showed a most marked increase; and perhaps an even worse result of the removal of all control was that the principal increase took place in the more virulent forms of the disease.

"The statistics of 1895 are in themselves irrefutable proof of the necessity of stronger legislation. In that year, out of 68,331 men in cantonments, the admissions into hospital for venereal diseases were no less than 36,681, or 536·9 per 1,000. Of these cases, 22,702 were syphilis. The ratio for primary disease

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has increased 137 per cent. since 1887, and that for secondary disease no less than 188 per cent. in the same period. Secondary syphilis was, in 1895, four times more prevalent than it was in 1873.

“ Another proof of the increasing virulence is found in the average duration of the treatment of venereal cases in hospital, which has risen from 26 days in 1887 to $31\frac{1}{2}$ days in 1895. This increased period of treatment in hospital leads up to another calculation which shows the inefficiency that results from venereal disease.

“ I have said that the admissions into hospital for venereal in 1895 were 36,681. The average duration of treatment in hospital was $31\frac{1}{2}$ days, consequently the loss of duty paid for by the Indian tax-payer was 1,155,451 days.

“ As a proof that these diseases are, to a very great extent, preventible under efficient rules and regulations, I may here state that while, in the British Army in India in 1895 the admissions averaged 536·9 per 1,000, the latest statistics we have of the same class of admissions in the German Army show only 26·7 per 1,000.

“ I will not impose on the Council the gruesome details of the lamentable results which syphilis is producing amongst the young and healthy men who land in India to serve their country as soldiers. The accounts from Netley Hospital which appeared not long ago in the *Pioneer* newspaper put these results on their true and most deplorable aspect ; and make up a case for using the means which are available to us for decreasing these horrors which must appeal to all who are not indifferent to human suffering of the most terrible type, or have not schooled themselves to looking on inactive at the terrible inheritance which is thus being prepared for thousands of innocent persons yet unborn.

“ Every effort will also be made to warn young soldiers of the consequences of immorality in this country, to point out to them the terrible risks they run, to appeal to their higher moral instincts, and to their pride in their manhood to avoid connections that carry with them grave danger that they will return home shattered wrecks unfit alike for military duty or civil life.”

His Excellency THE PRESIDENT said:—“ I do not wish to prolong the discussion, upon which no one who has the honour of the British Army at heart can enter without a feeling of pain. My Hon'ble Colleagues have stated the case of the Government of India, and the general situation has been fully

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set forth in a remarkable debate in the Imperial Parliament which is already in the hands of everybody all over the world.

“I will therefore only make two observations. In the first place I should wish to say that I take my full share of the responsibility for the measures which the Government of India propose to adopt, and of which the Bill which my Hon'ble Colleague has asked leave to introduce is a part.

“Whatever we may think of the conduct of incontinent persons, male or female, I cannot think that any one with a scrap of humanity, who appreciates at all the awful consequences not only to the incontinent person, but to many innocent and helpless human beings, from the ravages of this dire disease, would hesitate to take any measures which are in his power to control and check the progress of a disease so insidious, so terrible, and so far-reaching. So far as this part of the subject is concerned I regard it as one more of those steps in the progress of sanitary regulation of which this age has seen so many.

“I think that on the score of morality my position is equally clear. I have already ventured on another occasion to take up the challenge of the Archbishop of Canterbury, and I say again that in my opinion a sin of this nature is one which is not worthy of a true soldier. If treachery and cowardice may be called the primary sins of a soldier and unworthy of his profession, so I venture to say is the wilful self-indulgence which incapacitates a man from the performance of his duties to his Queen, whom he has engaged to serve, and which cuts him adrift from those tenets of morality and religion which his countrymen as a Christian nation profess.

“I think I can say with confidence that your Excellency and those who are concerned in the administration of the Army in India would not wish to regard this matter from any other standpoint.

“Therefore, if, as practical men, we cannot, in considering the measures which we must take, shut our eyes to human frailty, I do not hesitate to say, as the responsible head of the Government of India, that it has never, and will never, deny its support to those who, regimentally or otherwise, have influence with the soldier, and who use that influence not only to point out to the young soldier the condemnation and punishment which such acts bring with them, but also to encourage, to stimulate, and to assist him in forming higher ideals and pursuing purer pleasures, and thus to help in the most effectual way

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towards removing this terrible reproach from the British Army, of which we are so proud."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS introduced the Bill.

The Hon'ble MR. CHALMERS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

The Council adjourned to Thursday, the 22nd July, 1897.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA ;
The 9th July, 1897. }