

*Thursday,  
10th October, 1889*

ABSTRACT OF THE PROCEEDINGS  
OF THE  
Council of the Governor General of India,  
  
**LAWS AND REGULATIONS**

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

1889

VOLUME XXVIII



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1890.

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

The Council met at Viceregal Lodge, Simla, on Thursday, the 10th October,  
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P R E S E N T :

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

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

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

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

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

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

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

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

CANTONMENTS BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the following clause be substituted for clause (21) of section 26 of the Bill to consolidate and amend the law relating to Cantonments :—

“(21) the prevention of the spread of infectious or contagious disorders within a cantonment, and the appointment and regulation of hospitals or other places within or without a cantonment for the reception and treatment of persons suffering from any disease ;”

and that for the word “suspected” in clause (22) of the same section the word “supposed” be substituted.

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill, as amended, be passed. He said :—

“I have already on previous occasions stated at some length the object which has led to the introduction of this Bill into the Council, and it is therefore unnecessary that I should say anything further on this subject, more especially as I understand that my hon'ble friend Mr. Scoble is about to address a few remarks to the Council bearing upon some of the legal aspects of the case.

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will therefore only add that Chapter V of the original Bill, which relate to house-property in cantonments, has been reserved to be dealt with as a separate measure in Calcutta, when the important interests which are concerned in that Chapter will be dealt with by the Select Committee with all the care and consideration which they deserve."

The Hon'ble MR. SCOBLE said :—

" There are one or two points in connection with this Bill to which I think it desirable briefly to call attention.

" Although there is no definition of the word 'cantonment' in the Bill, it has a well-understood popular meaning. The term has for more than a century been applied to military stations in India; and these stations have, almost from their first establishment, been subject to special regulations. The troops themselves being under military law, it became necessary—to use the language of Bengal Regulation XX of 1810—'from the great number of native retainers and followers attached to military establishments in India, and the importance of a prompt and orderly discharge of their duties to the welfare of the troops'—to bring them also to a certain extent under military discipline; and with this view, in order to ascertain the areas within which the stricter rules thus sanctioned might be enforced, it was enacted that 'the limits of cantonments and garrisons, including the military bazars attached thereto, at which any division or corps of the army, or any considerable detachment not being less than half a battalion, may be quartered, shall be marked out by the commanding officer in concert with the magistrate,' and submitted for the final orders of Government. Similar Regulations were framed for Madras and Bombay; and, under one or other of these enactments, all the older cantonments in India have been demarcated. It seemed to the Select Committee, therefore, better to adhere to the old method of determining what places were to be treated as subject to cantonment law than to attempt a new definition, and section 4 of the Bill accordingly provides that the Local Government, with the previous consent of the Governor General in Council, may, by notification in the official Gazette, declare any place within its territories, in which any of Her Majesty's regular forces are quartered, to be a cantonment. The same authorities may also from time to time define or vary the limits of cantonments, and may also declare that places are no longer cantonments; while the Governor General in Council is specially empowered to exclude the whole or any part of a cantonment from the operation of any portion of the Act. These provisions have been introduced in order to meet the changes which necessarily occur in the distribution of troops throughout the coun-

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try ; and it is considered that by requiring the concurrence of the Local Authority and the Supreme Government to the establishment or continuance of cantonment law in any locality every reasonable safeguard is secured that private rights will be respected and public convenience duly regarded.

“ While recognizing the necessity of maintaining special laws in places primarily intended for the occupation of troops and followers, it has been the object of the framers of the Bill to assimilate, wherever it was possible, cantonment law to that prevailing in municipalities. In some parts of India cantonments are included within the limits of municipalities, and special provisions have been introduced to prevent any conflict of jurisdiction from this cause. But in all cantonments only such taxes as can be imposed in a municipality in the same Province may be levied ; and, by section 25 of the Bill, the Governor General in Council is authorized to extend to any cantonment any enactment in force in any municipality in British India, subject to such restrictions and modifications as circumstances may show to be expedient. Under this section I hope many useful sanitary provisions, to be found in local laws—such, for instance, as the provisions of section 354 of the Calcutta Municipal Consolidation Act, 1888, with regard to the sale of adulterated articles of food—will be introduced into military stations.

“ Section 26 of the Bill contains a very careful enumeration of the objects and purposes for which special rules may be made. To secure uniformity it is provided that the rules shall be made by the Governor General in Council, and to secure publicity that they shall not be made until the persons to be affected by them have had an opportunity of examining them and submitting such criticisms or objections as they may wish to offer. Exception has been taken to the power given to make rules ‘for the construction and maintenance, to the satisfaction of the cantonment authority, of buildings and of boundary walls, hedges and other fences.’ I think this is a very necessary power. It is possessed by municipal authorities everywhere ; and owners of property will only have themselves to blame if rules of a really more oppressive or arbitrary character than those which prevail in well-organized civil communities are passed for lack of due remonstrance on their part.

“ With regard to cantonment funds, it may be observed that, although the Bill requires that, as a general rule, they must be expended upon the purposes of the Act within the cantonment itself, power is taken, in section 21, to apply them to like objects (as, for instance, the formation and conservancy of a cholera camp) beyond the limits of the cantonment.

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"One other point remains to be noticed. It will be obvious that the health and discipline of the dwellers in cantonments cannot be secured if breaches of cantonment rules can be committed with impunity just outside their boundaries. Section 28 of the Bill accordingly provides that the Local Government may extend to the neighbourhood of a cantonment any enactment or rules in force within the cantonment itself. It will rest with the Local Government, and not with the military authorities, to determine in what respects, and within what area, these rules and enactments ought to be applied beyond cantonment limits; and, in order to prevent hardship or loss to owners of property in such neighbourhoods, it will be in the power of the Local Government to award such compensation or to make such other conditions as the circumstances of the case may require."

The Motion was put and agreed to.

#### OFFICIAL SECRETS BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to prevent the disclosure of Official Documents and Information. He said :—

"This Bill has not originated with the Government of India; it is a mere re-enactment of an Act which was passed during the last session of Parliament to prevent the disclosure, by unauthorised persons, of official documents and information. This Act applies to all parts of Her Majesty's dominions, and is therefore already in force in India, but it has been thought desirable to place it also on the Indian Statute-book, in order to give it greater publicity, and to bring its provisions into complete harmony with our own system of jurisprudence and administration. In Indian law, for example, the technical distinction between felonies and misdemeanors which survives in the criminal law of England has not been maintained, and is therefore not reproduced in the Bill; and the provision in the English Act that prosecutions under the Act shall not be instituted except by or with the consent of the Attorney General has been modified by substituting the consent of the Local Government or of the Governor General in Council for that of the Law Officer. In other respects the Bill follows the language of the English Statute.

"There can, I think, be little doubt that a measure of this sort has long been required. The offences which it is intended to reach are (1) the wrongful obtaining of information in regard to any matter of State importance, and (2) the wrongful communication of such information. The penalties range from

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transportation for life to imprisonment or fine, according to the gravity of the offence. The offence is, of course, aggravated when committed by a servant of Government, contrary to his official duty."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill, and moved that it be taken into consideration at the next Meeting of the Council. He explained that, as the measure was only a reproduction of the English Act, it seemed unnecessary that it should be referred to a Select Committee.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 17th October, 1889.

S. HARVEY JAMES,

*Secretary to the Government of India,*

*Legislative Department.*

SIMLA ;

*The 11th October, 1889.*