

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1934**

The Sugar (Excise Duty) Bill

List of Reports of Select or Joint Committees

presented to the Legislative Assembly in 1934.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Tariff(Amendment) Bill.	5. 2.34.	
2.	The Indian States(Protection) Bill.	14. 2.34.	
3.	The Negotiable Instruments(Amendment)Bill.	26. 2.34.	
4.	The Factories Bill.	27. 2.34.	
5.	The Indian Tariff(Textile Protection) Amendment Bill.	2. 4.34.	
6.	The Sugar (Excise Duty) Bill.	10. 4.34.	
7.	The Matches (Excise Duty) Bill.	14. 4.34.	
8.	The Indian Dock Labourers Bill.	16. 7.34.	
9.	The Mechanical Lighters(Excise Duty) Bill.	23. 7.34.	
10.	The Indian Carriage by Air Bill.	25. 7.34.	
11.	The Indian Aircraft Bill.	25. 7.34.	
12.	The Hedjaz Pilgrims(Muallims) Bill(<u>Second Report of the Select Committee</u>)	2. 8.34.	
13.	The Indian Army (Amendment) Bill.	7. 8.34.	
14.	The Indian Iron and Steel Duties Bill.	13. 8.34.	
15.	The Indian Petroleum Bill.	14. 8.34.	
16.	The Indian Income-tax(Amendment) Bill by Sir Hari Singh Gour.	22. 8.34.	
17.	The Indian Navy (Discipline) Bill.	25. 8.34.	

LEGISLATIVE ASSEMBLY.

We, the undersigned members of the Select Committee to which the Bill to provide for the imposition and collection of an excise duty on sugar was referred, have considered the Bill and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.

2. *Clause 1.*—Although this Bill only imposes an excise duty, it cannot be considered independently of the import duty on sugar, because the difference between the two must give the necessary measure of protection. We consider that it is implicit in the present proposals that the surcharge should become merged in the import duty and no longer be regarded as a temporary emergency addition, and also that if any proposals are made for the reduction of the existing rate of import duty the Legislature should be given an opportunity simultaneously to review the excise duty.

Clause 2.—The additional definitions are rendered necessary by our decision referred to in the note on clause 3 that a lower rate of duty should be imposed on *Khandsari* sugar and that the rate of duty on palmyra sugar, if any such rate is considered necessary or advisable, should be fixed at some future date after further information is available.

Clause 3.—We have reduced the rate of duty proposed by the Bill to a rate of Re. 1 per cwt. upon sugar generally and a rate of ten annas per cwt. on *Khandsari* sugar. Although we recognise that the difference between the import duty plus surcharge now in force (Rs. 9-1-0 per cwt.) and the excise duty (Rs. 1-5-0) proposed in the original Bill amounting as it does to Rs. 7-12-0 per cwt. represents the maximum duty recommended by the Tariff Board and accepted by the Legislature as a measure of protection, we are not satisfied that the preservation of the difference in this manner will produce exactly the same effect as the measure of protection promised. We are also apprehensive that the imposition of an excise duty of Rs. 1-5-0 may in the early stages of the development of the sugar industry prove unduly onerous and check that development. On the other hand we consider that a duty of Re. 1 per cwt. may be safely imposed.

Our reduction of the rate of duty to be payable by *Khandsari* sugar is prompted by the consideration that there is a lower margin of profit in the case of sugar made by factories working by the *Khandsari* process and that such sugar is accordingly less capable of shouldering the proposed duty.

We are also apprehensive that if the *Khandsari* industry is suddenly seriously damaged that may

react on the growers of cane who rely on the disposal of cane or *gur* to *Khandsari* factories.

In the case of palmyra sugar, we have been handicapped by the absence of reliable information regarding the extent and the nature of the industry, but we feel unwilling to inflict a blow, the effects of which we cannot measure, on an industry which we understand owed its revival to the favourable circumstances provided in the last couple of years and on which very large numbers of the rural population of Madras are dependent. We have accordingly provided that palmyra sugar should be exempt from the excise duty until the duty can be fixed in the light of further information. We desire to record our view that before the Governor General in Council fixes a rate of excise duty on palmyra sugar an opportunity should be given to the Legislature to express its views upon the proposals of Government.

Clause 4.—We have reduced the amount of the penalty which may be exacted for non-payment of duty.

Clause 5.—The change here made assimilates the wording of the clause to that used in sub-clause (1) of clause 3.

Clause 7.—We consider it unnecessary to impose a penalty of imprisonment for an offence under this clause. We have, however, enhanced the fine which may be imposed.

Clause 8.—We have enhanced the fine to accord with that now provided in clause 7.

Clause 11.—We have slightly expanded clause (b) of sub-clause (2) in order to enable the requisite provision to be made for controlling the movements of sugar used within a factory and liable to duty, under sub-clause (1) of clause 3. The change made in clause (e) is advisable in order to enable inspections as well as searches to be made. The change made in sub-clause (3) of this clause is prompted by the same considerations as that made in clause 7.

We desire to record our conviction that Government should, in return for the tax which they are now levying upon the sugar industry, afford all possible help to the industry by the organisation of measures of research, both agricultural (evolution of better types of cane, etc.) and industrial (disposal of bye-products, etc.).

3. The Bill was published in the Gazette of India, dated the 17th March, 1934.

4. We think that the Bill has not been so altered as to require republication, and we recommend that it be passed as now amended.

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 *GEORGE SCHUSTER.
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 *R. P. BAGLA.
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 *TALIB MEHDI KHAN.
 JAGANNATH AGGARWAL.
 *BHAI PARMANAND.
 A. DAS.
 *S. C. MITRA.
 *HARI RAJ SWARUP.
 *MOHD. AZHAR ALI.
 *HAJI ABDOOLA HAROON.
 *BHUPUT SING.
 *A. RAMASWAMI MUDALIAR.

NEW DELHI;

The 10th April, 1934.

MINUTES OF DISSENT.

We are unable to agree that the rate of duty on sugar generally should be reduced from Rs.1-5-0 per cwt. to Re. 1 per cwt. We consider that if the import duty is maintained at such a level above the excise duty that the difference represents the amount of the protective duty recommended by the Tariff Board, then the industry cannot claim that it is not receiving that measure of protection. To demand more than this is to imply that the measure of protection recommended by the Tariff Board is not sufficient. No evidence in support of this was produced before the Select Committee.

On the more general point that, quite apart from any question of whether the promised measure of protection would be maintained or not, the imposition of an excise duty at the rate of Rs. 1-5-0 per cwt. would check the proper and reasonable development of the industry, no evidence in the way of figures was produced before the Committee, nor were the figures on which the Government had based its calculations effectively challenged. We feel therefore that the case for the Government proposal has in no way been shaken and that a reduction of the duty to Re. 1 per cwt. is a purely arbitrary proposal, based on no careful examination of what the industry can stand.

Apart from the above considerations which induce us to support an excise of Rs. 1-5-0 on its merits we must point out that a reduction to Re. 1 would entail a loss of about Rs. 34 lakhs in 1934-35 or 38 lakhs on a full year's working at the estimated rate of Indian production for 1934-35. As the Indian production increases the loss will of course increase. Such a change would therefore disturb the whole financial plan on which the budget was framed, with its proposal for a transfer of half the jute export duty to Bengal and other provinces.

As regards the recommendation in the main report on clause 1, we consider that Government should be under an obligation not to do anything without the approval of the Legislature to vary their declared policy of maintaining the difference between the import and excise duties at the level recommended by the Tariff Board. If the excise duty were to be reduced to Re. 1 then the difference would be in excess of this level even in present conditions when the selling price of Java sugar justifies an additional margin of 8 annas. We consider that Government should be free to reduce this difference to that recommended by the Tariff Board without bringing the excise legislation under review.

B. L. MITTER.
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I was opposed to the proposal of fixing the excise duty at rupee one for the factories and ten annas for the *Khandsari* made and carried by the non-official members in the Select Committee; I dare say, however, I would not have cared to write this note of dissent, if the Government for the sake of creating a spirit of compromise, would

have stooped down a little and agreed to the proposal. Personally speaking I did not believe in the principle of imposing an excise duty on an infant industry as the sugar industry is at the present moment. The Assembly, having agreed to the principle, I think at this stage instead of Rs. 1-5-0 per cwt. half the amount of the proposed duty would have been quite sufficient and proper at least for the years upto 1938. My reasons are as follows:—

In order to explain my point clearly, I want to take a free extract from the Sugar Industry Act, 1932. It begins "Whereas it is expedient in pursuance of the policy of discriminating protection of industries in British India, with due regard to the well-being of the community, to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, 1946, by determining the extent of protection to be conferred upto 31st day of March, 1938 and by making provision for the determination of the extent of the protection for the remainder of the period". May I ask the Honourable the Finance Member if by bringing in this excise duty Bill he is acting in consonance with the spirit and letter of the Sugar Protection Act. The clause No. 4 of the Protection Act says "If the Governor General in Council is satisfied, after such enquiry as he thinks fit, that sugar not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industries by the duties imposed by section 2, he may, by notification in the Gazette of India, increase such duty to such an extent as he thinks fit.

From the above, it is quite clear that at the time of bringing in the protection Bill, the Government were not only anxious to foster and develop the sugar industry in India but also to give powers to the Governor General to increase the import duty on sugar if he found that foreign made sugar was selling in India "at a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industries, etc."

It is hard even to guess what has happened during this short period of 1½ years which has radically changed the attitude of the Government towards the industry. The Honourable the Finance Member's chief reason for imposing the excise duty is to counter-balance the surcharge on the import duty which he now seeks to merge into the import duty. Let me examine the argument. Import duty on sugar was being levied ever since 1894. It was at first 5 per cent., in 1916 increased to 10 per cent., in 1921 to 25 per cent. and in 1925, this *ad valorem* was converted into specific duty at Rs. 4-8-0 per cwt. which was raised to Rs. 6 per cwt. in February 1930. This import duty was a revenue measure, and in 1932 when one rupee and four annas was added to it for protection purposes, both this import duty and surcharge were already there as revenue measure. By the imposition of such a heavy excise duty, the Government are virtually taking away the protection of Rs. 1-4-0 per cwt. so generously granted by them in 1932. I would ask the Honourable the Finance Member how this fact stands in contrast with the professions of the Government as expressed in the Protection Act. It were these open professions and the policy laid down accordingly which created a deep impression on the public mind and which led to the establishment of unusually large number of sugar factories from

which the protection is now practically being withdrawn and most of them will be left to struggle and help themselves in the best way they can.

BHAI PARMANAND.

It is a pity the Government did not see their way to alter the plan of taxing the production of sugar instead of taxing the profits of sugar factories. I would have supported a sugar factories profit Bill but I cannot support the policy of putting the proposed tax on an important article of food for the millions of poor people in India. This is not the way to encourage the sugar industry in this country.

C. S. RANGA IYER.

I am of opinion that the number of workers, viz., twenty under the definition of "Factory" is too high. I think the number should be reduced to ten as *Khandsari* concerns may have men working on the drying of sugar in spaces outside the definition of "Factory or within the precincts of which" and have less than twenty actually working in the Factory.

I also am of opinion that the rate of Excise for *Khandsari* sugar should be the same as for Factory sugar.

I do not quite see the necessity for sub-clause (4) of clause 11 of the Bill as the Governor General in Council will only require to use a Local Government as his agent, and I understand that power for that purpose is already in existence.

G. MORGAN.

I am not satisfied that the case as presented by the sugar industry in the Select Committee justifies a reduction in the excise duty from Rs. 1-5-0 to Re. 1. The figures which were given in support of this claim were conflicting and inadequate. Unfortunately the consideration of this question is intimately bound up with the general financial proposals of the Finance Member, which affect the solvency of one Province and involve the structure of India's credit. On the information available to the Committee, it

EXPLANATORY NOTE.

We have suggested the reduction of excise duty from Rs. 1-5-0 to Re. 1 per cwt. on two grounds.

1. Taking the price of Java Sugar and the price of Indian Sugar we are convinced that owing to internal competition there is no strict parity in selling prices between the two. It is admitted that in some centres at any rate Indian Sugar is sold at rates lower than those of Java Sugar. We have tried to compare the price level and also to work out on the basis of Tariff Board calculations the fair selling price of Indian Sugar. It has unfortunately not been possible to get an agreement on the facts with regard to these prices, but we feel convinced that an excise duty of Re. 1 will more correctly represent the duty which the industry can pay, having regard

required a strong case to justify the radical modification of the Government's financial plan involved in the reduction of the duty to the level suggested by my colleagues, even allowing for the inclusion of *Khandsari* sugar at a lower rate, the result of which is entirely problematical.

On the other hand, there is some force in the apprehension that the immediate imposition of the Rs. 1-5-0 duty may involve hardship to some of the factories which have recently started. Rapid and uncontrolled production has in fact been encouraged under the shelter of the combined protective and revenue tariff; and Government cannot entirely escape the consequences of its own policy. I therefore suggest that the excise duty of Rs. 1-5-0 be imposed only as from August 1st, 1934. This will give a breathing space to the newer factories, and will give Government adequate time in which to perfect their own administrative arrangements and to consult the interests concerned before framing their rules under the Act.

2. I do not imply the slightest criticism of my colleagues when I suggest that it would have been preferable if the sugar industry had presented its case for a reduction in the excise duty through witnesses, whom the Committee could have examined before arriving at its independent conclusions.

It was, of course, of great advantage to have among our colleagues those who have direct experience of the matter which was under consideration; but the Report would have carried greater weight if it had been based upon an exhaustive examination of evidence presented to it by expert witnesses.

F. E. JAMES.

Though I have affixed my signature to the Majority Report wherein the Excise Duty has been reduced from Rs. 1-5-0 to Re. 1, I am inclined to the alternate suggestion of keeping the duty at Rs. 1-5-0 but bringing the operation of the excise duty from August 1st. This in my opinion will be fair to all interests concerned.

I also suggest that section 10 of the Tariff Act should not be put into operation with regard to contracts made before the presentation of the current Budget.

R. B. BAGLA.

to the declared intention of the Government to give an effective protection of Rs. 7-12 per cwt.

We were told in Committee that if after the imposition of an excise duty of Rs. 1-5-0 the industry finds itself in a less protected state than contemplated by the Tariff Board *i.e.* does not get the effective protection of Rs. 7-12-0 per cwt. it might apply for a fresh enquiry by the Tariff Board. In our opinion this is inverting the process. The industry has made out a case for protection and the Tariff Board has made its recommendations. It is maintained by the Government that after payment of the excise duty of Rs. 1-5-0 per cwt. the industry will have an effective protection of Rs. 7-12-0 per cwt. The Select Committee therefore is bound to see whether these facts are correct and it would be

unfair to the industry to levy the excise duty irrespective of the extent of protection afforded to it and then ask it to await the decision of an enquiry by the Tariff Board. Having given the most careful consideration to all these facts we have come to the conclusion that an excise duty of more than Re. 1 per cwt. will be adverse to the interests of the industry and materially affect the measure of protection which according to the Government it ought to have at present.

2. The Finance Member estimated that he will get a crore and 47 lakhs by the imposition of this excise duty at Rs. 1-5-0 per cwt. We consider this an under-estimate. Owing to the growth of the new factories and large quantities of sugar bound to be manufactured in the current year, we estimate that at least 750,000 tons of sugar will be produced as against the Government estimate of 646,000 tons. Moreover, as the Government estimate did not include the *Khandsari* sugar which amounts to nearly 250,000 tons and of which at least 60 per cent. is produced by the factories, the total amount of revenue at Rs. 1-5-0 per cwt. would come to Rs. 2 crores, 38 lakhs and 25 thousand.

In a taxation measure it is the duty of the Legislature to see that no more revenue is granted than is asked for by the Government. We find that even on the basis of Re. 1 per cwt. the Government would get at least a crore and 47 lakhs that they have budgeted for. This is another reason why we have accepted the reduced rate of excise duty.

It has been suggested in the Select Committee that as other sources of revenue may not come up to expectations the Government is bound to get all it can out of sugar and that even if the yield from the excise duty went up much above 1 crore and 47 lakhs it was legitimate on the part of the Government to press for its proposal of Rs. 1-5-0 per cwt. We must confess we are unable to accept this contention. Taxation proposals have strictly to be interpreted and no Government is entitled to get more than it has

asked for under that proposal. If it could be proved that by lowering the rate of duty the budget provision can be kept in tact the proposal must meet with approval. There is only one relevant consideration which may effect our decision. The increase in the internal production of sugar has an obvious bearing on the imports of sugar. But the Finance Member has estimated that this year's imports would be only 110,000 tons as against the import of over 330,000 tons during last year. There is no possibility of the estimated figure of the imports being reduced owing to increased internal production particularly in view of the fact that due to the imposition of the excise duty, competitive conditions will be keener and that as estimated by the Sugar Technologist the consumption of sugar will also be larger.

Palmyra Sugar.

In the Select Committee it was agreed that if the Government after investigation were convinced that a duty on Palmyra sugar was justified they would ask the approval of the Legislature to the levying of that duty by means of a resolution. The Select Committee agreed to this proposal of the Government. We want to make this position clear in view of the ambiguous language of the report which says 'We desire to record our view that before the Governor General in Council fixes a rate of excise duty on palmyra sugar an opportunity should be given to the Legislature to express its view upon the proposals of the Government.'

S. C. MITRA.
HARI RAJ SWARUP.
MOHD. AZHAR ALI.
HAJI ABDOOLA HAROON.
BHUPUT SING.
A. RAMASWAMI MUDALIAR.

NOTE.

In addition to the Note which I signed with my other colleagues, I would like to add the following note :—

I am strongly of opinion that the Bill should come into force from 1st August, 1934, instead of 1st April, 1934, as is recommended by the majority. It is an acknowledged fact that sugar factories in North Bihar have suffered heavily on account of earthquake and it is desirable that some concession should be given to them.

The Honourable the Finance Member himself took the same view in his Budget speech. If my suggestion is not accepted by the majority, I would still like to emphasise that on account of special circumstances existing in Bihar the sugar factories in North Bihar should be exempted from the operation of this Act till 1st August, 1934.

HAJI ABDOOLA HAROON.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

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BILL

TO

Provide for the imposition and collection of an excise duty on sugar.

WHEREAS it is expedient to impose an excise duty on sugar produced in factories and to provide for the collection thereof; It is hereby enacted as follows :—

1. (1) This Act may be called the Sugar (Excise Short title and extent. Duty) Act, 1934.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(a) "factory" means any premises wherein, or within the precincts of which, twenty or more workers are working or were working on any day of the preceding twelve months, and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power;

(b) "owner" includes any person expressly or impliedly authorized by the owner of a factory to be his agent in respect of such factory; *

(c) "sugar" means any form of sugar containing more than ninety per cent. of sucrose;

(d) "khandsari sugar" means sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed; and

(e) "palmyra sugar" means sugar manufactured from jaggery obtained by boiling the juice of the palmyra palm.

3. (1) A duty of excise * * * * *
Imposition of duty on shall be levied on all sugar. sugar produced in any factory in British India and either issued out of such factory on or after the 1st day of April, 1934, or used within such factory on or after the said date in the manufacture of any commodity other than sugar, and shall be payable by the owner of the factory.

(2) The duty payable under sub-section (1) shall be at the following rates, namely :—

(i) on khandsari sugar at the rate of ten annas per cwt.;

(ii) on all other sugar except palmyra sugar at the rate of one rupee per cwt.;

(iii) on palmyra sugar at such rate, if any, as may be fixed in this behalf by the Governor General in Council after such enquiry as he may think fit.

4. (1) If any duty payable under section 3 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of duty unpaid which such authority may in its discretion think it reasonable to require.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

5. No person shall issue any sugar out of a factory, except in accordance with the provisions of rules made in that behalf under this Act, or, until such rules are made, in accordance with the general or special orders of the Local Government.

VIII of
1894.

6. (1) The Governor General in Council may, by notification in the Gazette of India, impose customs duty on sugar brought into British India from the territory of any State in India, not being territory which has been declared under section 5 of the Indian Tariff Act, 1894, to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Act on sugar produced in British India.

VIII of
1924.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of the Land Customs Act, 1924, shall apply to the levy of the duty of customs imposed under this section, and on such declaration that Act shall apply as if the expression "foreign territory" in that Act included territory forming part of a State in India.

7. Whoever contravenes the provisions of section 5 shall be punishable with * * * fine which may extend to two thousand rupees.

* *

8. Whoever evades or attempts to evade the payment of any duty payable by him under this Act, or fails to supply any information which he is required by any rule made under this Act to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

9. Any Court trying an offence under this Act may order that any sugar, together with the packages or coverings thereof, in respect of which the Court is satisfied that an offence under this Act has been committed, shall be forfeited to His Majesty.

VIII of
1878.

10. The Governor General in Council may, by notification in the Gazette of India, declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from

customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as he may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on sugar imposed by section 3.

11. (1) The Governor General in Council may, Power of Governor by notification in the General in Council to Gazette of India, make make rules. rules to carry into effect the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the assessment and collection of the duty and the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duty shall be payable, and the recovery of arrears ;
- (b) regulate the issue of sugar out of or the use of sugar in the manufacture of commodities within any factory and provide for the appointment of officers of Government to supervise within any factory such issue or use ;
- (c) impose on the owners of factories, and on persons engaged in the sale of sugar, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns the particulars to be contained therein, and the manner in which they shall be verified ;
- (d) provide for the detention of sugar for the purpose of exacting the duty, the confiscation otherwise than under section 9 of sugar in respect of which breaches of the Act or rules have been committed, and the disposal of sugar so detained or confiscated ;
- (e) authorize and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of sugar, and
- (f) authorize and regulate the composition of offences against or liabilities incurred under the Act and rules.

(3) In making any rule under this section the Governor General in Council may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with
* * fine not exceeding two thousand rupees.
* *

(4) The Governor General in Council may delegate all or any of his powers under this section to a Local Government.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to provide for the imposition and
collection of an excise duty on sugar,
with the Bill as amended.