

Thursday, July 6, 1876

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

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ABSTRACT OF THE PROCEEDINGS

1877

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1876.

WITH INDEX.

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1877.

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 Vic., Cap. 67.

The Council met at Government House on Thursday, the 6th July 1876.

P R E S E N T :

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

His Excellency the Commander-in-Chief, K. C. B.

Major-General the Hon'ble Sir H. W. Norman, K. C. B.

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble Sir W. Muir, K. C. S. I.

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

Colonel the Hon'ble Sir Andrew Clarke, R. E., K. O. M. G., C. B.

The Hon'ble John Inglis, C. S. I.

The Hon'ble T. C. Hope.

The Hon'ble F. R. Cockerell.

TREASURE TROVE BILL.

The Hon'ble MR. BAYLEY asked leave to postpone his motion for leave to introduce a Bill to amend the law relating to Treasure Trove.

Leave was granted.

OPIUM BILL.

The Hon'ble SIR W. MUIR presented the Report of the Select Committee on the Bill to amend the law relating to Opium.

He said that the Bill had been greatly enlarged and improved. It now embraced and consolidated the whole of the existing laws relating to opium throughout India excepting only the Bengal law. In amalgamating the Bombay law with the provisions of the Bill he wished to acknowledge the valuable assistance the Committee had received from his Hon'ble friend Mr. Hope.

The laws on the subject for Bombay and for the Panjáb, and the miscellaneous enactments on the subject elsewhere, had been all repealed, and such of

their provisions as were approved had been consolidated in the revised Bill. And thus for the future there would be but one law throughout India regulating the procedure for opium. As originally drawn, the Bill was confined to provisions for the growth of the poppy, and the possession, sale and transport of the drug. As amended, it provided also for the import, export and warehousing of opium; in respect of all which matters the Government would have power to make rules giving it an absolute control.

The law under which the opium monopoly on this side of India was conducted had been left untouched, as it was purely local in its application. When introducing the Bill, he had explained that it had no immediate bearing on the systems or methods under which the opium revenue was administered. Personally he entertained strong objections to the Bengal system of a State monopoly and manufacture; and for his own part he should greatly prefer to see the Bombay system of levying the revenue by an export duty introduced, under proper checks as to cultivation, on this side of India also. He trusted that some day the experiment would be made in some of the districts of Upper India to see whether the Bombay system could not be successfully substituted for the monopoly without any undue financial risk. There was nothing in the proposed law that would not consist with such a trial. But the Bill of itself introduced no change; things would remain as they were until it should be the will of the Government to make any change. The Bill in fact had no bearing either one way or the other on the policy of Government in respect of the diverse systems prevalent in different parts of India.

There were no other parts of the Bill requiring special explanation. But he might mention that great pains had been taken by the Committee in drawing sections 14 and 15 so as to give full power of seizure and arrest without too greatly enlarging the discretion of the Police and other subordinate establishments. It had been their care on the one hand to confer such absolute and summary power as was needed for the suppression of smuggling and other illicit practices, and on the other to limit, as far as possible, the openings and occasions for oppression and abuse. With the same view it had been provided in section 21 that any officer making an arrest or seizure should report the same within eight-and-forty hours to his departmental superior.

The Bill had been so considerably enlarged and amended that the Committee had directed its republication in the *Gazette of India* and the local Gazettes.

REGISTRATION ACT AMENDMENT BILL.

The Hon'ble MR. COCKERELL asked the President's permission to make a personal explanation in reference to certain statements made during the debate on the Registration Bill at the last meeting of the Council.

THE PRESIDENT having accorded the permission asked for, MR. COCKERELL proceeded to remind the Council that during that debate he had read an extract from a speech made by the Mover of the Registration Bill of 1870-71 on the occasion of its introduction into the Council, attributing to the local Government of the North-Western Provinces opinions in favour of the extension of the compulsory system of registration, which he (MR. COCKERELL) was advocating, and that the Hon'ble Member who was formerly Lieutenant-Governor of the North-Western Provinces (Sir W. Muir) had virtually contradicted this statement on the ground that he had been at the head of the Government of the North-Western Provinces at the time referred to, and that he was not now, and had not then been, in favour of extending the area of compulsory registration. The statement must have been made upon some misconception of the real facts of the case.

In reply to this assertion, he (MR. COCKERELL) could only then say that the statement referred to by him was contained in a speech made towards the close of the year 1870; that he had no doubt as to the statement having been made on sufficient grounds, but he had not had time to refer to all the connected papers and ascertain the precise authority upon which it was made.

As the speech from which he (MR. COCKERELL) had then quoted was his own—for he had charge of the Registration Bill of 1870-71—it concerned him very materially to trace the authority for the statement referred to, and to show that it had not been made without good foundation.

Since the last meeting of the Council he had been able to trace the correspondence which contained the authority for the statement in question, and he would now, with the permission of the Council, read extracts therefrom, which would show conclusively that that statement was *absolutely* correct.

In a letter addressed by the Government of the North-Western Provinces to the Government of India, dated 29th August 1870, the Secretary Mr. Elliott wrote—

* * * * *

(Para. 7.) "The country has now become accustomed to the Registration Act, and His Honour submits as worthy of consideration whether the provisions of that Act might not be extended to alienations of landed property under rapces 100 in value." * * *

It was noticeable that this communication was not made in connection with any projected alteration of the Registration law, but in reference to certain other proposals for special legislation to prevent fraudulent transfers of property, and it was apparently an entirely spontaneous suggestion not founded upon the reports or recommendations of subordinate officers.

Very shortly afterwards in a letter addressed to the Government of India bearing date 14th September 1870, and having direct reference to the amendment of the Registration law, Mr. Secretary Elliott wrote :

* * * (Para. 2) "Adverting to paragraph 3 of Mr. Johnston's letter," [Mr. Johnston being at that time the Registrar-General of the North-Western Provinces, and having then, as previously, expressed himself strongly in favour of the extension of compulsory registration,] "suggesting the abolition of the limit of rupees 100 as regards the compulsory registration of instruments affecting immoveable property, I am to refer to the remarks contained in paragraph 7 of my letter No. 438A, dated 29th August, in which this change was advocated," thus confirming the previously expressed view in favour of the course which he (MR. COCKERELL) had recommended.

Several months after the date of this letter, the Government of the North-Western Provinces, in forwarding a communication from the local High Court, which strongly opposed the proposal to extend compulsory registration, observed in reference to that communication :

"The Court's remarks on this head are entitled to much weight, and on a reconsideration the Lieutenant-Governor would withdraw his previous recommendation proposing the abolition of the limit."

This letter was dated the 21st March 1871, and Act VIII of 1871 was passed on the 24th March of that year. So that not only had he (MR. COCKERELL) no knowledge of this recantation of its former deliberately expressed opinion, on the part of the Government of the North-Western Provinces, when he made the statement founded on the earlier communications above referred to, but inasmuch as the later letter did not reach the Government of India until after the passing of the Act—and with that event his personal connection with the question ceased entirely—this change of views never came to his knowledge, and he was not aware of it when he last addressed the Council on the subject. In tracing the authority for the original statement he had been led to the discovery of this enunciation of a change of opinion on the part of the Government of the North-Western Provinces in regard to the question lately under discussion.

As regards the contradiction of the statement under such circumstances, he could only suppose that the Hon'ble Member (Sir William Muir), whilst mindful of the view to which he had been apparently converted by the High Court, and continuing to maintain that view, had forgotten that he had at one time held or expressed a directly opposite opinion.

The Hon'ble SIR WILLIAM MUIR begged permission to add a few words to the effect that the statement which had just been made by his Hon'ble friend Mr. Cockerell was quite correct as to the facts. Mr. Cockerell having on a former occasion quoted the opinion of the North-Western Provinces Government, he (SIR WILLIAM MUIR) had felt bound to say that his views differed from those assigned to him in the passage quoted, and that he thought there must have been some misapprehension on the subject. The misapprehension into which his Hon'ble friend had fallen had now been satisfactorily explained, from his not having been cognizant of the final report submitted by him (SIR WILLIAM MUIR) as Lieutenant-Governor, in which he had, on mature consideration, expressed his opinion as adverse to the change now advocated by Mr. Cockerell. The explanation was therefore entirely satisfactory both as respected himself and his Hon'ble friend.

The Council adjourned to Thursday, the 27th July 1876.

SIMLA;
The 6th July 1876.

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