

COUNCIL OF GOVERNOR GENERAL
OF
INDIA

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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.

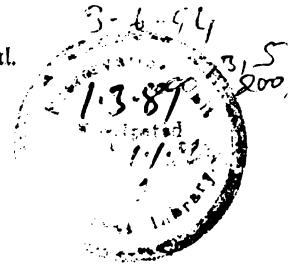
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WITH INDEX.

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1882.

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, Simla, on Wednesday, the 20th April, 1881.

P R E S E N T :

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

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

The Hon'ble Whitley Stokes, C.S.I., C.I.E.

The Hon'ble Rivers Thompson, C.S.I., C.I.E.

The Hon'ble J. Gibbs, C.S.I., C.I.E.

Major the Hon'ble E. Baring, B.A., C.S.I.

Colonel the Hon'ble G. T. Chesney, R.E.

The Hon'ble C. Grant.

INDIAN PAPER CURRENCY ACT AMENDMENT BILL.

The Hon'ble MR. STOKES introduced the Bill to amend the Indian Paper Currency Act, 1871, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Thompson, the Hon'ble Major Baring and the Mover. When moving for leave to introduce this Bill, he had sufficiently described its object and nature. It was of the simplest character; but it was, no doubt, a piece of patchwork; and he would ask the Select Committee, to which he hoped the Council would refer it, to recommend that the Act be repealed and re-enacted with the amendments proposed by the Bill.

The Motion was put and agreed to.

The Hon'ble MR. STOKES also moved that the Bill be published in the local official Gazettes in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

SINDH INCUMBERED ESTATES ACT AMENDMENT BILL.

The Hon'ble MR. GIBBS introduced the Bill to amend the Sindh Incumbered Estates Act, 1876, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes, Thompson and Grant and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. GIBBS also moved that the Bill be published in the *Bombay Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

BROACH AND KAIRA INCUMBERED ESTATES ACT AMENDMENT BILL.

The Hon'ble MR. GIBBS also introduced the Bill to amend the Broach and Kaira Incumbered Estates Act, 1877, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes, Thompson and Grant and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. GIBBS also moved that the Bill be published in the *Bombay Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

EXCISE BILL.

The Hon'ble MR. STOKES introduced the Bill to consolidate and amend the law relating to the Excise-revenue in Northern India, British Burma and Coorg, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Thompson, the Hon'ble Major Baring and the Mover. He said that there were only two points about the Bill which required further notice. One was the great abbreviation of the present law which would be effected when the Bill was passed. The present law contained eighty-seven sections; the Bill only fifty-four. This was brought about partly by an improved arrangement of the matter of the law, and partly by the omission of five sections which related solely to Opium, and which had been repealed by the Opium Act; of four sections which were omitted as the subjects to which they related had been sufficiently provided for in the Sea Customs Act, 1878; of other sections provided for by the Penal Code and the Code of Criminal Procedure. Chapter VII of the present Act was omitted as it would be rendered unnecessary by the saving of the Cantonment Act, 1880, effected by the Bill. Other provisions had been omitted as their subjects might be dealt with by executive order; and it was a principle of our legislation never to provide by a law for what might legally be done by the Executive.

The other point which he ought to state more specifically to the Council related to the enhancement of certain penalties prescribed for offences against the Excise-law. He had stated generally when he obtained leave to introduce the Bill, that most of those penalties had been enhanced, and he would now state shortly the extent, in each case, of that enhancement. First, as regards unlicensed manufacturing of spirit and fermented liquor, the punishments under the present law for violating the rules relating to that matter were only fines of one thousand rupees and five hundred rupees; under the Bill there would be a fine of one thousand rupees, or imprisonment for six months, or both fine and imprisonment. Secondly, as regards smuggling, the penalties under the present law were fines of one thousand rupees and five hundred rupees; under the Bill there would be a fine of one thousand rupees, or imprisonment for six months, or both fine and imprisonment. The penalties under the present law for the illicit sale of spirits or intoxicating drugs were fines of five hundred rupees and two hundred rupees; under the Bill there would be for that offence a fine of one thousand rupees, or six months' imprisonment, or both. For the illegal possession of spirits and drugs the present law provided a fine of two hundred rupees for each offence; the Bill authorized the infliction of a fine of one thousand rupees, or six months' imprisonment, or both.

As to breaches of the rules for the management of distilleries—under the present law the only penalties were fines of two hundred rupees and fifty rupees; under the Bill the fines were reduced to one hundred rupees. The illegal manufacture of intoxicating drugs was not provided for by the present law; the Bill would impose a fine of one thousand rupees, or six months' imprisonment, or both, for that offence.

Except in the case of breach of rules and unimportant breach of license, the Bill contemplated imprisonment in the criminal jail, where it might be rigorous or simple at the discretion of the convicting magistrate. Where a landowner connived at illicit manufacture, the imprisonment in default of payment of the fine would, under the Bill, be in the criminal jail: under the Act it was in the civil jail.

Those were the changes which had been introduced in the chapter on penalties, and it was for the Financial Department, if, after what he had said, it was thought necessary to do so, to justify the alterations. He would only remark that the statement which he had made to the Council at the last meeting, as to the impossibility of securing the excise-revenue without enhancing the penalties under the present law, seemed supported by the action of this legislature with regard to the Opium Act and by that of the Government of India with regard to the Bengal Excise Act, 1878. The Opium Act was held by this Council to be rendered necessary by the inadequate penalties then

provided in the Excise-law (Act No. X of 1871) for offences which endangered the safety of the opium-revenue, a very precious imperial asset. The revenue arising from spirit, fermented liquor and intoxicating drugs was made a provincial asset from the beginning of the year 1877-78. The Local Governments naturally soon claimed the same protection for their excise-revenue as the Supreme Government had provided in the case of opium; and, in particular, the Bengal Government, with the sanction of the Government of India, passed, in 1878, a local Act, the main feature of which was the introduction of rigorous imprisonment for excise-offences in lieu of simple detention in the civil jail.

His Excellency THE PRESIDENT observed that the papers connected with the Bill had only come into his hands just before the meeting of the Council. He had not had time therefore to consider them, especially with reference to the question of the enhancement of the penalties; and he desired to reserve his opinion on the subject until he had an opportunity of seeing what arguments had been brought forward by the Local Governments in favour of the proposed changes.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill be published in the local official Gazettes of the territories to which it extended, in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 4th May, 1881.

SIMLA ;
The 20th April, 1881. }

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India,
Legislative Department.