

Wednesday, December 19, 1877

ABSTRACT OF THE PROCEEDINGS

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 under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Wednesday, the 19th December 1877.

P R E S E N T :

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

His Honour the Lieutenant-Governor of Bengal, C.S.I.

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

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

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

Lieutenant-General the Hon'ble Sir E. B. Johnson, K.C.B.

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

The Hon'ble F. R. Cockerell.

The Hon'ble B. W. Colvin.

The Hon'ble Mahárájá Jotíndrá Mohan Tagore.

The Hon'ble T. C. Hope, C.S.I.

The Hon'ble Mumtáz-ud-Daula Nawáb Sir Muhammad Faiz Ali Khán
Bahádur, K.C.S.I.

The Hon'ble G. C. Paul.

The Hon'ble E. C. Morgan.

NEW MEMBERS.

The Hon'ble G. C. PAUL and the Hon'ble E. C. MORGAN took their seats as Additional Members.

OPIUM ACT, 1876, AMENDMENT BILL.

The Hon'ble MR. HOPE introduced the Bill to amend the Opium Act, 1876, and moved that it be referred to a Select Committee. He said that, when soliciting leave to introduce the Bill, he had explained its objects so fully, that he thought it was unnecessary for him to add any further remarks on the present occasion.

The Motion was put and agreed to.

The Hon'ble MR. HOPE also moved that the Bill be published in the *Gazette of India* in English, and in the local Gazettes in English and in such other languages as the Local Governments direct.

The Motion was put and agreed to.

INDIAN ARMS BILL.

The Hon'ble SIR E. BAYLEY introduced the Bill to consolidate and amend the law relating to Arms, Ammunition and Military Stores, and moved that it be referred to a Select Committee. He had promised on the last occasion, in introducing the Bill, to afford some explanation of the different sections of the new law which had been proposed with the view of meeting the special difficulties which rendered the introduction of the Bill itself necessary. The whole Act, he might say, had been drafted and recast, although its substance was very much that of the present Bill: But it had been re-arranged and made more concise and put into a more intelligible and compact shape by his hon'ble friend Mr. Stokes, and Mr. Fitzpatrick. There would, no doubt, be many points of drafting in which the Bill might be improved while passing through Select Committee, and he did not propose at the present moment to say that every particular provision of the Bill was in a form in which he should like to see it in its ultimate shape. He thought, however, that, as it was now drawn, it stated the precise policy which the Government of India wished to enforce.

As he had explained at the last meeting of the Council, one main object of the present Bill was to obtain stricter control over the importation of cheap firearms, and also on their possession, even in the non-disarmed parts of India, so as to prevent their transport and sale without, and even within, our own territories or frontier and their transfer to persons into whose possession it was essential to the peace of the country that such arms should not come. He would, however, before proceeding further, draw attention to the first and twenty-third sections of the Bill, which contained all the exemptions at present in force, and the Council would see further that the Bill contained provisions for the continuance of similar exemptions. He would state to the Council what the chief of these exemptions were; first of all, all Europeans, Americans and Anglo-Indian subjects were exempted; then certain Chiefs, Jágirdárs and other Natives who were specially exempted by the Local Government under the powers given to them. Again, for example, in the Panjáb, all honorary magistrates and Police-zaildárs, who were a class of honorary officials below the degree of magistrates, were exempted. He merely mentioned these examples to show how wide the scope of present exemptions was, and he wished to point out that every exemption existing under the present law would be continued, and would not be affected by the passing of this Bill; and the Local Governments and the Government of India would have similar powers to continue or to renew or to extend these exemptions in future.

Section 4 of the Bill defined "ammunition," "military stores" and "arms," and also contained various other definitions. The particular feature in these definitions was the separation of the definitions of "ammunition" and "military stores." This was a new feature, and the Council would find that this difference affected the Bill, inasmuch as "military stores" included a great many articles which were also used for other purposes, and therefore the absolute restrictions as to these articles were very much less stringent than as to what were called "ammunition." In fact he might say generally, although it did not exactly express the fact, that power was given to the Government to restrict the transport of military stores, rather than that their transport was absolutely restricted by the Bill. He had mentioned at the last meeting of the Council that some very considerable difficulties had occurred from the want of proper definitions in this respect, and that, for example, for the time considerable inconvenience was felt in the saltpetre trade from the want of the separate definition now introduced.

Section 5 of the Bill, or rather a clause of it, contained a new provision in regard to the sale by private persons of arms and ammunition. It had been found, as a matter of fact, and it was only very natural that persons buying arms and ammunition perfectly *bonâ fide* for their own use, ceased to require them, and then sold them to the first purchaser: in that way a considerable number of arms had got into hands to which it was not desirable that they should pass. There would therefore be two restrictions on this point: one that it would not be legal to sell such arms to a person who was not licensed to possess them; and secondly, that any private person selling arms or ammunition would have to give notice thereof to the nearest Police-station. SIR E. BAYLEY did not think that in practice this would be found a very oppressive or harsh provision, while at the same time he believed that it might prevent a good deal of mischief.

Section 7 referred to the duties on cheap firearms. He explained this part of the subject at so much length on the last occasion, that he would not detain the Council at present with any further remarks upon it. The Council would find in the second schedule attached to the Bill the specific duties it was proposed to levy on firearms and military stores, including parts of firearms. This schedule had been prepared with some difficulty, for it required a good deal of technical knowledge to fit it exactly to the facts and necessities of the case. He hoped that, when the Bill went into Committee, his colleagues would assist him in making this schedule as perfect as it could be made.

Section 11 referred to the general restriction which it was proposed to place on the possession of arms all over the country, without reference to the fact whether specific districts were included under what was section 32 of the

old Act, whether, that is to say, they were "disarmed" or "undisarmed" districts. It was intended that the necessity for a license should extend to the whole country. He would point out, however, that the last two clauses in this section were intended to meet any difficulty which might be felt by persons who now possessed arms, and it would be seen that this section would not come into force for three months after the date on which the Bill came into force, so as to give time and opportunity to a person who did not care to take out a license to dispose of his arms, or to take out a license if he chose to do so; and if he could not sell them, or care otherwise to get rid of them, he would be allowed by the third clause of the section to deposit them at the nearest Police-station.

Section 22 was somewhat wide in its terms, but it was a generalization of section 20 of Act XXXI of 1860. The Council would see that sections 25 and 26 of the Bill maintained, in respect to searches in the undisarmed districts all the existing restrictions as to prosecutions and searches to be made, and did not specially extend, but were on the contrary rather intended to mitigate the severity of, the law. Under section 25, in such cases no prosecution could be instituted against any person without the previous sanction of the Magistrate of the District; and by section 26 a search under similar circumstances must be in the presence of some person specially appointed by name by the Lieutenant-Governor in this behalf, and not otherwise; that was to say, an ordinary Police-officer would not have the power of making searches without any special authority or guidance, but in every case some special selected officer of some rank and position would be employed in making searches.

SIR E. BAYLEY did not know whether there was anything else which was new in the Bill as to principle. As he had said before, the subject was a very complicated one, and the drafting of the Act had been one of great difficulty. If hereafter any blots were found in it, he was sure that the Select Committee would be very glad to consider them, and to amend them so as to meet any difficulties which might arise. He did not know how long the Committee would sit, but the Bill would be no doubt in their hands for some time, and both the public and the members of the Council would have the opportunity of bringing to notice any special points which might occur to them.

The Motion was put and agreed to.

The Hon'ble SIR E. BAYLEY also moved that the Bill be published in the *Gazette of India* in English, and in the local Gazettes in English, and in such other languages as the Local Governments direct.

The Motion was put and agreed to.

MADRAS DISTRICT JUDGES BILL.

The Hon'ble Mr. STOKES presented the Report of the Select Committee on the Bill to enable the District Judges of the Presidency of Fort Saint George to suspend and remove certain ministerial officers, and for other purposes.

SUNDRY BILLS.

The Hon'ble Mr. STOKES also moved that the Hon'ble Mr. Paul be added to the Select Committees on the following Bills :—

To define and amend the law relating to the transfer of property.

To define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

The Motion was put and agreed to.

SEA CUSTOMS BILL.

The Hon'ble Mr. HOPE moved that the Hon'ble Mr. Morgan be added to the Select Committee on the Bill to consolidate and amend the law relating to the levy of Sea Customs-duties.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to amend the Opium Act, 1876—The Hon'ble Messrs. Stokes, Cockerell and the Mover.

On the Bill to consolidate and amend the law relating to Arms, Ammunition and Military Stores—Lieutenant-General the Hon'ble Sir E. B. Johnson, the Hon'ble Mr. Stokes, the Hon'ble Mahárijá Jotíndrá Mohan Tagore and the Hon'ble Messrs. Hope, Evans, Morgan and the Mover.

The Council adjourned to Thursday, the 27th December 1877.

D. FITZPATRICK,

Secretary to the Government of India.

Legislative Department.

CALCUTTA :
The 19th December 1877. }