

Wednesday, December 12, 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 12th
December 1877.

PRESENT :

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. Arbuthnot, K.C.S.I.

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

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

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-Daola Nawáb Sir Muhammad Faiz Ali Khán
Bahádur, K.C.S.I.

The Hon'ble G. H. P. Evans.

NEW MEMBERS.

The Hon'ble MUMTÁZ-UD-DAOLA NAWÁB SIR MUHAMMAD FAIZ ALI KHÁN
BAHÁDUR took his seat as an Additional Member.

The Hon'ble G. H. P. EVANS took his seat as an Additional Member.

OPIUM ACT, 1876, AMENDMENT BILL.

The Hon'ble MR. HOPE moved for leave to introduce a Bill to amend the Opium Act, 1876. He said that this Bill owed its origin mainly to two circumstances. The first of these he would explain in some detail. In the Opium Act of 1876, it was provided that the Act should come into force on the same date throughout all India, and consequently it was necessary to have all the rules, which were to be subsequently promulgated by the Local Governments, ready beforehand, so that,

on the Act coming into force, they might be issued at once. In that Act it was also provided that it should come into force on the 1st day of April 1877. But when the 1st of April 1877 arrived, even the drafts of the rules had not, in the large majority of cases, been received from the several Local Governments for the approval of the Governor General in Council. Consequently, there was no alternative except to postpone the date of the Act coming into force, and Sir John Strachey in March last accordingly introduced and obtained the sanction of the Council to a Bill providing that the Act should come into force on such day as the Governor General in Council might hereafter declare. It was at that time hoped that there would be no difficulty in getting all these draft rules together in a few months, and the further difficulty that some of the Local Governments might have their rules quite ready, and others might not, was not foreseen. Now, after the lapse of about nine months, the position was this, that certain Local Governments, and those very large and important Governments, had sent in draft rules which had been approved and were ready to be issued. But in other cases, the rules which had been received had been returned for revision, and certain Local Governments again had not even up to the present time sent in any draft at all; unless, therefore, the Government was prepared to wait indefinitely for the advantages which the Act would ensure, fresh legislation was unavoidable. The first portion of the Bill which he asked leave to introduce would therefore alter the Opium Act, 1876, by providing that it should extend to such local areas, and on such day, in the case of each, as the Governor General in Council might, by notification in the *Gazette of India*, from time to time direct.

The second circumstance which had given rise to the motion this day was that a clerical error had unfortunately crept into the Act of 1876, extending only to one word, but that word so important that it would prevent the operation of the Act throughout Lower Bengal and other provinces in which the system of Government monopoly of the cultivation of opium was in force. The error to which he referred consisted in the use in section 22 of the word "Act," instead of the word "section." The section provided that "nothing in this Act" should apply to districts where Act XIII of 1857 was in force. The effect of that was that, as section 2 of that Act, which prohibited the cultivation and manufacture of opium except for Government, was repealed in the schedule, no legislative authority remained at all on the subject in question. By substitution, however, as was originally intended, of the word "section" for the word "Act," all such difficulty would be removed, and merely the particular section, which related to procedure in case of illegal cultivation of opium, would not be applicable where Act XIII of 1857 was in force.

As an amending Act was about to be introduced for the two purposes which he had explained, it was thought desirable to take advantage of the opportunity to make corrections in one or two other minor cases, and to insert one or two small provisions, although legislation would not have been considered necessary on these points if it had not otherwise been desirable. One of these would be found in the third and fourth sections of the Bill, and consisted in inserting the words "free or," after the word "India," in the fourth and fifth sections of the Act. Those sections provided that the Governor General in Council might authorize the import or export of opium into or from any specified part of British India, on payment of such duty or on such other terms as he might think fit. But some one raised the doubt whether the use of the words "or on such other terms" left it open to the Governor General in Council to authorize the import or export of opium under no conditions at all, without duty or any other restriction. On the whole, Mr. HOPE was inclined to think that the words did cover such an arrangement as that. But it was thought better to take this opportunity of inserting the words "free or" after the word "India," which would entirely cover the difficulty.

Again, sections 5 and 7 of the Bill contained provisions which were necessary to the complete operation of the system of farming the duty leviable on the sale of opium which was contemplated by the Act.

Finally, in order to reduce the Statute-book as much as possible, the Bill provided for the total repeal of Act VI of 1877.

These remarks would, he thought, enable the Council fully to appreciate the scope of the Bill which he solicited leave to introduce.

The Motion was put and agreed to.

INDIAN ARMS BILL.

The Hon'ble SIR E. BAYLEY moved for leave to introduce a Bill to consolidate and amend the law relating to Arms, Ammunition and Military Stores. He hoped the Council would forgive him if he trespassed a little on their patience in introducing this Bill, for it related to a subject which was in itself of very great importance; it was one also of very wide general interest and of very considerable complexity. He therefore proposed to enter on the present occasion somewhat into detail regarding the circumstances which had rendered fresh legislation necessary at the present moment, the course which the Government of India had hitherto adopted in regard to those circumstances, and the particular provisions which it now proposed, to meet the necessities of the case. It would perhaps be remembered that when the present Arms Act was under consideration in this Council—he meant Act XXXI of 1860—there was

much and prolonged discussion. The Bill was very fully considered in all its details in several meetings of the Council. It was very considerably modified during the progress of these discussions. The general result of these modifications and of the passing of certain executive subsidiary orders, which were issued while the Bill was under discussion and had been maintained to the present day, was to make the Act work smoothly in its most important aspects. But very shortly after the Act was passed, it was found (as was often the case when a Bill was much altered during its progress in Council) that there were several minor defects both of form and substance in the Act—in the definition, for instance, of “military stores,” as to the mode of licensing the transport of arms, and in the definition of “transportation,” “exportation,” and “importation”—which made it rather difficult to carry out the provisions of the law in a wholly satisfactory manner. The Government of India were however very unwilling to amend, almost immediately after it took effect, an enactment which had been settled after so much discussion, and they preferred to deal as far as was practicable with all these matters by executive action only. Accordingly from time to time a great number of varying orders were passed, with the history of which he need not trouble the Council. There were a good many restrictions, for instance, with regard to saltpetre, for it was found that the provisions of the Act threatened to destroy the trade in that commodity. It was found possible in this instance to issue various executive directions by which the mischief was prevented, but in many points the doubts and difficulties raised by the defects of the present Act had remained up to the present time certainly not fully remedied; the inconvenience indeed in this respect was so great, that in 1870 a draft Bill was placed before the Council and introduced by Mr. (now Sir William) Robinson with the sole object of consolidating the law and amending these defects. When it was attempted to proceed with that measure, it was found that after all it raised questions of policy of some importance, and on more mature consideration it was thought expedient to make further inquiries, and to await the result of longer experience of the working of the existing law before proposing any final measure. It was partly on this account and partly from pressure of more important matters, that legislation on this subject had been hitherto from time to time deferred. But the subject had now become in some respects of such urgency that it was considered wise to bring it without delay before the Council, with a view to a more general and complete amendment of the law.

The two leading points which raised questions of policy were, first, the importation of arms, especially cheap fire-arms, and of ammunition, and, secondly, the necessity for restricting and regulating the transfer and transport

of arms so as to prevent their reaching the wild tribes without our frontier, and the dangerous classes within our frontier, who ought not to be allowed to possess them. There was good reason to believe that, under the existing law, the import-trade in cheap arms and ammunition had grown up to an unwholesome extent, and that far larger quantities were exported than were required merely for legitimate purposes. It was known to the Government of India that cheap arms were in fact bought and sold to an extent quite incompatible with the maintenance of peace and good government. With the permission of the Council, he would read some papers which would illustrate this subject. One was from the Government of Bengal, dated so far back as July 1870. In that letter it was written that—

“ His Excellency the Governor General in Council is aware that the subject of the importation of fire-arms and ammunition has lately engaged the serious attention of the Government of India and of this Government, and by the Foreign Department’s notification No. 742, dated 28th May 1869, a set of rules was sanctioned for Lower Bengal, which it was hoped would have brought the importation and transportation of arms under a more effectual check than had up to that time been exercised. In practice, however, it is found that the only importers of arms from beyond sea are the regular dealers in Calcutta, to whom, as the law and orders of Government now stand, it is impossible to refuse passes for their consignments, however numerous, so long as no military rifles are among them. This being so, the attention of the Police ought naturally to be mainly directed to checking the transport of arms from Calcutta into the interior. The Commissioner of Police, however, reports that the Police have been unable to exercise any efficient or useful supervision over the transport and sale of arms. The outlets from Calcutta by land and water are so numerous that detection of illicit transport on the way is impossible with existing establishments, and without a most vexatious amount of interference with general trade. Inspection of the dealers’ books has never been regularly carried out, and it is represented that not only would it necessitate the appointment of a special officer to control the operations of the 85 licensed dealers in arms, &c., in Calcutta, but the inspection would be of no real value whenever it became the dealer’s interest to conceal his transactions. The number of passes for arms which the Commissioner of Police has granted since the passing of the rules in May 1869 is shown in table A. If this be compared with the extent of the importation as shown below, an idea will be formed of the amount of illicit transport of arms into the interior. It is impossible to believe that the greater part of the arms imported is retained in Calcutta.

“ 2. Coupled with the fact that the existing rules provide no adequate check upon the trade, there is the further significant circumstance that the number engaged in the trade, and the amount of their transactions, are largely increasing. In 1868 there were in Calcutta only twenty-

			<i>Value.</i>	
			Rs.	
1867-68	...	...	1,63,726	eight persons licensed to deal in arms, and five dealers in sulphur; in 1869 there were sixty-nine dealers in arms and eighteen in sulphur. From a report by the Collector of Customs, it appears that
1868-69	...	...	2,20,309	
1869-70, eleven months	...	...	2,09,785	

the import of fire-arms is yearly increasing. The numbers of arms cannot be given, but the value of the consignments on private accounts is shewn on the margin.

" 3. The Lieutenant-Governor's attention has been particularly drawn to the operations of

Guns, single	...	...	...	765
" double	...	...	...	270
Rifles, single	...	...	...	30
" double	...	...	...	25
Gunpowder	...	...	lbs.	35,000
Caps	...	...	...	61,250
Shot	...	...	tons	50
Pistols	...	...	...	200

one firm. Since March their agents here have imported the arms and ammunition shewn in the annexed statement; and there is now lying before Government an application for permission to pass a further invoice of—

350 single guns,
 250 double „
 40 single rifles,
 20 double „
 200 pairs of pistols,
 500 tons of lump-sulphur (nominally for making sulphuric acid).

" 4. The Lieutenant-Governor views with some anxiety this great extension of the trade in cheap arms, which at present Government is powerless to prevent or control. There can be little doubt that most of these weapons find their way to the frontier, and are there disposed of to the Hill tribes. This has been demonstrated by the large seizures occasionally made in frontier-districts like Chittagong and Kachár, and by the reports which reach Government from time to time of the common use of fire-arms by tribes to which they were not long since unknown. Apart, moreover, from the smuggling of arms in bulk, there can be no doubt that many guns are conveyed from Calcutta singly by residents in frontier-districts on the occasion of any visit to the capital and sold at a considerable profit to the hillmen. On this point I am to draw attention to the accompanying copy of a letter, No. 336, dated 18th February last, from the Commissioner of Chittagong."

To this letter were appended several papers giving the opinion of local officers, of which he would read the following extract from a letter of the Commissioner of Chittagong :—

" The Lieutenant-Governor is, I think, aware from the replies made to the enquiries of Government and from other reports and applications, that considerable efforts are being made in this Division to carry out the wishes of the Governor General in Council as to preventing arms and ammunition from reaching the Eastern frontier-tribes.

" These efforts have been sufficiently successful * * * to be very creditable to the Police; but the results have for some time been convincing me that the provisions of the law in force in this Division are insufficient to enable us to put a stop to small and frequent sales *
 * * * * *

" A few months ago the then Magistrate of Chittagong, Mr. Irwin, made the following observation in reporting on a particular case :—

" As regards arms, the law, as it now stands, seems to me all but useless. Guns can be bought after application to the Magistrate, who can scarcely refuse a license, and then passed from hand to hand till they reach the frontier."

" Without agreeing with Mr. Irwin as to the difficulty of refusing licenses, I agree with him that the law does not go nearly far enough, and that as it stands, guns can be passed from

hand to hand without much difficulty. Section 26 of the Arms Act only provides for the disarming of persons who are found with arms, &c., in their possession without a license, and there is no other penalty * * * * * Considering the value of arms to the Lúsháis and Shindús, it will be readily conceived that the slight risk of being now and then disarmed is compensated for many times over by successful sales at high prices."

And another Commissioner of Chittagong, writing at the time of the Lúshái expedition, quotes one of his subordinates as saying:—

"Nearly all the guns with which the Lúshái-Kúkís are armed have been obtained in the first instance from Calcutta."

Again, in 1872, a Resolution of the Bombay Government notes the large trade in cheap arms which had suddenly sprung up. In 1871 the importation was double that of 1869, nearly 5,000 fire-arms having been sent up-country openly from Bombay in 1871, the enormous bulk of which consisted of military weapons, and a fair proportion of these were breech-loading arms of precision.

Many of these arms went to Karáchi, and as early as 1865 it was reported as follows by an officer writing from Rájkot:—

"While our Native troops are armed with the smooth bore muskets only, a large trade in Enfield pattern long range rifles has of late sprung up in the sadr bázár, and I believe in the province generally. During the months I was in charge of the sadr bázár two such consignments arrived * * * of which the following is a description:

"A rather rough trade-made long Enfield with brass-mountings, * * *
* * * * *
very fairly bored, the rifling being uniform instead of progressive as in the Government arm. The different parts are well and strongly made up, and it is altogether a very serviceable arm. The price asked is Rs. 40."

"A large number of this description of arms has lately been imported from Bombay, and I observed that Messrs. '—' and Company were advertising the expected advent of 1,000 long Enfields.

"The rifles which reach the district are obtained principally through the small Memon merchants of Bombay."

A similar complaint was about the same time made by Colonel Keatinge, then in Káthíawád, who forwarded a letter from one of the Chiefs under his Political Agency, explaining that it was necessary that his troops should be armed with arms of precision to enable them to cope with lawless robber bands already similarly armed.

In 1872, also, the Agent to the Governor General in Rájputána complained of the way in which arms and ammunition were sold by travelling merchants from Bombay :—

“The arms are good weapons and are sold at low rates, a double-barrelled fowling-piece being procurable for from Rs. 25 to Rs. 30,”

and he goes on to speak of a sale of nine double-barrelled guns to a gang of refugees Meenas (a notoriously robber-tribe), and adds

“This is only one instance of the way in which these weapons are being purchased by Meenas, Bowrecas, Mogheas, and other predatory tribes,” * * * * *
and

“unless some measures to restrict their sale are speedily taken, their possession by the predatory bands will extend. Wherever they have been introduced in any numbers, the predatory bands are becoming too powerful for any Police, and unless checked, I apprehend a time will soon arrive when Government will be obliged to hunt down and disarm these tribes by British troops.”

Later on, the Political Agent in Márwár reported, in describing the proceedings of certain outlaws :—

“The Bullana Meenas were armed with percussion-guns, which, being now so easily procured from Bombay, are in the hands of all the bad characters of the country ;”

and in another place he speaks

‘of arms of precision being commonly found in the hands of brigands and of outlaws.’”

In 1872 the Bengal Government again complained that the evil was increasing, and that licenses for nearly 5,000 weapons had been granted at prices

the maximum of which was rupees 15 for double-barrelled, and rupees 9 for single-barrelled,* weapons, and the annual value of the imports of arms and ammunition was said to be about two lákhs of rupees.

* Some were said to cost only 8 shillings.

The Lieutenant-Governor of Bengal attempted, and temporarily with beneficial results, to check this flood of cheap arms by refusing, as he was empowered to do under the existing law, permission to import weapons under a certain minimum value; but it was obvious that, under the present system of a duty levied *ad valorem*, the Lieutenant-Governor's measures could be evaded, either by raising the invoice-prices above the real value at the cost of a slightly enhanced duty, or by importing arms in parts—a process which had been attempted.

But the trade in ammunition had under the present law in no way been checked, and was enormous. It was known that in four years—from 1871 to 1874—one hundred millions of percussion-caps had been exported into Calcutta, of which not more than fourteen millions were legally re-exported. Again a very large quantity of gunpowder and a large quantity of cartridges were similarly imported; and he was informed that an application was recently made by a single Firm to import 7 lákhs of caps and 14,000 pounds of gunpowder monthly, an amount which could not represent any legitimate demand. In fact it was known that considerable numbers of arms and much ammunition had been, and continued to be, illegally exported, and seizures had been made, in the Panjáb for example and *en route* to the Eastern frontier and to Upper Burma, which left no doubt that a considerable illicit traffic was being carried on in such articles, with tribes more or less hostile beyond our territories.

Indeed we knew that the frontier-tribes on our Panjáb border were supplied in considerable numbers with excellent arms of precision, some of which, not being of patterns ever used in the British Army, could only have been supplied by private importation.

He had given these instances, not as exhausting the subject, for, as a matter of fact, there was a mass of further correspondence all to the same general effect, but as perhaps sufficient to illustrate the necessity for further legislative action in this direction.

It was indeed the frequent and urgent representations made on this head which had decided the Government of India, after consulting the various Local Governments and Administrations, to introduce two new provisions into the law.

The first of these was the levy of a duty—not of an *ad valorem* duty as at present, on arms imported, but a fixed duty—which would operate to check the importation of cheap arms, while it would interfere but little more than the existing duty did with arms of medium value, and still less with those of a more expensive character.

It was understood, for example, that a very good Martini-Henry rifle could be imported into this country at a maximum cost of rupees 35, and other arms at a still lower price. In some cases, as had been seen, a gun could be imported on an invoice-price of eight shillings.

The existing duty was an *ad valorem* duty of ten per cent. (Act XVI, 1875, Schedule A, Art. 2—Arms, Ammunition and Military Stores.) It was proposed

to substitute for this a fixed duty of rupees 50 for each gun, and of rupees 20 for each pistol, a proportionate duty being fixed on all parts of such weapons in order to prevent attempts such as had actually been made to introduce the different parts of fire-arms piecemeal.

He only stopped to notice an argument to which some reference would be found in the papers to be placed before the Council, namely, that, by checking the importation of cheap arms, the manufacture of such arms in India would be stimulated to an undue and dangerous extent.

The truth was however that unless by machinery, the importation and use of which would not be permitted, it would be impossible to manufacture such arms, at least in any numbers, at a cheap rate. The skill which would enable an artizan, by hand-labour, to imitate even the guns imported for a few shillings, would usually command in other work a remuneration so high as to detach him from the manufacture of cheap fire-arms; moreover, the manufacture of arms within India could be controlled far more easily than their importation.

As regards ammunition, &c., the existing law would be preserved intact. Local Governments would be instructed to refuse licenses for the importation of excessive quantities, and its sale and storage would be placed under more stringent restrictions, which would render difficult its disposal for improper purposes after importation.

The law would also be altered so as to permit a stricter regulation of the transport of weapons and ammunition in India, and would impose heavy penalties on illicit transport, especially when any attempt at concealment was made.

There would be also found in the Bill another measure for remedying the evils above described, the necessity for which had been admitted by the Government of India not without much hesitation and only after the almost unanimous expression of opinion by Local Governments and Administrations and of their executive officers as to its necessity. The existing law, it would be perhaps remembered, practically divided the country into disarmed and undisarmed districts or provinces, and while certain somewhat stringent regulations applied to the former, no restrictions at all, except as to the importation of arms and manufacture of arms, applied to the latter.

It had been shown however that it was practically impossible to prevent or control the transmission of arms to the disarmed districts, or to the frontiers of India, unless some regulation was adopted as to the possession and transfer of arms in the non-disarmed districts. If an agent could buy and collect arms

and ammunition without any notice to the Police, or other let or hindrance, in a non-disarmed district, there was no other difficulty to be overcome in transmitting them to places beyond but the regulations against illegal transport, the risk of evading which was comparatively small; indeed, as a matter of fact, several concealed consignments had been seized, and yet it had, he believed, not been found possible in any single case practically to reach either the real sender or consignee. Even, therefore, though it was intended to make the rules as to transport more strict and the penalties for their evasion somewhat heavier, it would still be impossible to maintain any effective control over the traffic in arms with disarmed or frontier-districts, unless the possession of arms elsewhere was more or less under control.

He might say that this opinion had been expressed, not merely by the Governments of disarmed provinces, but also by two at least of the Governments of two great non-disarmed provinces—Madras and Lower Bengal.

It accordingly was intended to extend to *all* districts, without exception, the provision for making the possession of arms without a license illegal, and to make the sale of arms to persons not holding such a license a criminal offence.

It would also be provided that licensed dealers in arms should keep regular books, and that private persons selling arms should register the transfer at the nearest police-office.

These provisions would, however, be tempered by the maintenance of all the executive exemptions already in force under the existing law, and by making prosecutions for possessing arms legal only under the order of the Magistrate of the district; moreover, searches for arms would not be made except in the presence of specially selected officers, and only on occasions when there was good reason to believe that an offence was being committed.

With these restrictions, and with judicious rules for the grant of licenses, which the Bill would give the Government of India power to make, it was to be hoped that the provisions of the Bill would not be found more stringent than necessary, or in practice in any degree harsh or oppressive.

It would not in all cases, for example, probably be necessary to make the licenses renewable annually, or the levy of a fee for a license usually more than sufficient to recoup the cost and trouble of preparing the license.

Having thus explained the policy of the Bill, he would only add that the proposals now put forward, however stringent they appeared, had not been made without a full conviction on the part of the Government of India that they were

necessary to the preservation of peace and good order. And it was to be remembered that such legislation, indeed more stringent legislation, was not without precedent even in Europe. Without going further than the British Statute-book, the Irish Acts of 1856 and 1870, &c., provided that persons knowingly having arms in possession were liable to imprisonment with or without hard labour for two years; that persons found carrying arms could be arrested by any private individual; that licenses could be revoked by proclamation, and the owners compelled to deposit their arms and ammunition in such places as might be mentioned in it; that dealers could not sell to persons not duly licensed. Indeed so stringent were the provisions of those Acts, that a person desirous of carrying a revolver for his own protection must obtain a special license.

Of course the Government of India did not expect (nor probably did any one else) that the measures proposed would be absolutely effective to prevent altogether the illegal importation, sale and transport of arms and ammunition; but it was hoped and believed that they would, if judiciously enforced, suffice to restrain illegal trade within comparatively harmless dimensions.

In conclusion he would only say, that if he obtained the leave of the Council to bring in the Bill which had been prepared, he would then take the opportunity of explaining the clauses which had been drawn to give effect to the policy he had described, and would explain the other new provisions chiefly designed to clear up doubts which had arisen from the wording of the existing law.

Lieutenant-General the Hon'ble SIR E. JOHNSON said that after the very exhaustive speech of the mover it was perhaps unnecessary for him to say anything: But he felt especially glad, as a military man, that the Government had decided to deal with this most important subject. When he said that he spoke as a military man, he meant that he spoke in the interests of our own soldiers. Since the time referred to in one of the papers from which Sir E. Bayley had quoted, he was happy to say that our soldiers have been placed in a much better position than that in which they were then; for a great portion of the army has received arms of precision. But there are still troops, especially local corps and military police, who are without such arms. These men might be brought into conflict with robbers, dacoits, and ill-doers of every description,—who are in possession of arms of a superior description to those with which our own troops were armed. It placed soldiers in a very false position to be liable to be brought against men armed with arms of precision very superior to those which they themselves possessed; and therefore he thought it essentially important that the question should be dealt with by a legislative measure of the kind now proposed.

But not only as regards the importation of arms, but equally important was the prevention of the manufacture of fire-arms and ammunition in this country. The hon'ble mover and the members of this Council were no doubt perfectly aware, that recently the Government had had before them as a fact that an admirable cap-manufactory existed in a city near one of our military stations. The caps turned out in that manufactory were almost equal to those which the Government supplied to their troops; and it was also well known that the Native artisan was so excellent a manipulator, and, like the Chinese, copied so well, that the arms and warlike implements he turned out were not to be distinguished from those of our own troops. And therefore when the Council was dealing with the illegal importation of arms, they were equally bound to deal with the manufacture of such arms in this country.

SIR E. JOHNSON had had the privilege of looking over this Bill and he confessed that he did not see any loophole by which the provisions and intentions of the Act could be avoided.

The Motion was put and agreed to.

STAMPS BILL. •

The Hon'ble MR. COCKERELL moved that the Bill to consolidate and amend the law relating to Stamps and Court-fees be referred to a Select Committee. He said that the Bill which was introduced at Simla in view to its early publication, had now been before the public for nearly two months.

Every expression of opinion in regard to the proposed amendments of the law contained in the Bill which its publication had elicited, was being carefully observed and noted. No official communication or representation by any public body addressed to the Council, in regard to its provisions, had yet been received, and the criticisms which had from time to time appeared in the public Press, both European and Native, were directed rather to the details than the principle of the measure; they would doubtless receive the careful consideration of the Select Committee before which the Bill would come if the present motion was carried; but they were not such as to call for special notice here.

When introducing the Bill, he (MR. COCKERELL) had endeavoured to explain as fully as possible the considerations which had led to the alterations of the present law for which it provided, and he did not think that he could now profitably occupy the time of the Council by adding anything to what he then said, unless any hon'ble member in speaking to the present motion should make such criticisms or comments on the provisions of the Bill as might indicate that further explanation was needed.

The Hon'ble SIR JOHN STRACHEY said:—"MY LORD,—I think it right, as the Member of the Executive Government more especially responsible for the administration of the Stamp-revenue, to say a few words on the present motion, although my hon'ble friend Mr. Cockerell has on a former occasion treated the subject so ably and so completely that little remains for me to add. The Bill which is now I hope about to be referred for the consideration of a Select Committee of this Council is the outcome of long and careful consideration. The law which it is now proposed to embody in a single Act is at present contained in two principal Statutes, in several amending and otherwise subsidiary Acts, and in many notifications which have the force of law.

"The object of the measure now under consideration was originally consolidation only. I find that it was initiated in the Legislative Department in August 1875, in the pursuit of that useful policy of codification which is so identified with our hon'ble and learned colleague now responsible for that Department. It was represented to the Government of India, that the law relating to Stamps and Court-fees was, at that time, scattered through thirteen Acts and Regulations, forty-six notifications, and numerous Rules having the force of law; that there had been nearly fifty important decisions upon doubtful points of the law by the several High Courts; and that it was known that not a few important provisions of the law were still the subject of doubts and uncertainties. All this in regard to a law which ought of all laws to be accessible and clear, as well in the interests of persons affected by its provisions, as of the revenues, which, it was known, suffered seriously from the habitual application by the Courts of the rule that Acts imposing duties should be construed with the utmost strictness, and so as to give the public the benefit of any reasonable doubt.

"Upon this representation from the Legislative Department, the Government of Lord Northbrook (Sir William Muir being Financial Member) admitted the validity of the reasons for taking up the subject, and, on the 21st December 1875, the Hon'ble Mr. Inglis obtained leave to introduce a Bill into this Council for the purpose.

"Meanwhile, a Committee had been appointed to report upon the use of adhesive labels, which had been introduced in 1871, and concerning which there was much difference of opinion. The report of that Committee is still under consideration, and the Bill now before the Council has been so framed as to enable the Government of India at any time to make any change that may appear to be expedient in the machinery by which stamp-duties are levied.

“Sundry other questions had also been referred to the Local Governments and subordinate officers, both in the Financial and Home Departments. These questions and the replies received to them have already been explained to the Council in sufficient detail by my hon'ble friend Mr. Cockerell. I wish only to make it clear that, in its inception, the present measure was altogether one of consolidation and administration, and that if, happily, results beneficial to the revenue should be produced, such results were not the object with which the measure was undertaken, and they are too uncertain to form a part of the arrangements which, in consequence of the obligations devolving on the State for the relief of famine, must soon be made in order to place the finances in a condition of safety.

“Nor under any circumstances can the increase of revenue be sufficiently large to be a matter of any great financial importance.

“Still the Stamp-revenue is a valuable item in the national balance-sheet, and the Government of India is bound, in the general interest, to take care that the duties imposed by the legislature are not evaded, but are effectually recovered, and from time to time to propose to the legislature the removal of any inequalities or omissions in this class of taxation which may come to its knowledge. The Stamp-revenue of 1876-77 was gross 284 lakhs of rupees, nett 274 lakhs, having steadily risen to these amounts from the comparatively moderate figures of gross 118 and nett 112 lakhs in 1860-61. Stamps now contribute about 5½ per cent. of the gross Revenues of India. The Stamp-revenues of Great Britain amount to about £11,000,000 of a Grand Total of £77,000,000, or one-seventh (14 per cent.) of the whole.

“The present Bill is calculated, as we hope, not only to simplify and improve the law, but also somewhat to increase our revenue by rendering evasion of the existing duties more difficult and by the removal of some existing defects.

“The evidence collected appears conclusive that the Courts of Justice do not at present enforce the just claims of the Revenues. Almost the only practical penalties for evasion of the Stamp-laws are the disabilities and other unpleasant consequences which ensue in case insufficiently stamped instruments come before the Courts of Justice; but the Courts are not always disposed to perform the business of protecting the financial interests of the State, and from our financial point of view (though from other points of view I do not blame them), they are too ready to accept excuses for disobedience to the Stamp-laws. A principal object of the present Bill is to remedy

this serious evil. We are bound to apply a remedy as soon as we become aware of evils of this kind; and I consider that if the legislation which we are now undertaking is not successful (as I hope it will be) in checking these evils, then we must continue amending and amending the law till we succeed in securing absolutely the whole dues of the State. I need not take up the time of the Council by describing in detail the provisions of the present Bill for this end.

“The Stamp-law of British India is in most respects modelled upon that of the United Kingdom, and we now propose to re-adjust our stamp-duties in some particulars in which they have hitherto been, relatively, lower than in Great Britain. Thus we think it equitable henceforth to levy, as is done at home, the same percentage of duty upon transactions of larger amount as is levied upon smaller transactions, and to impose upon bills of exchange the same proportionate burden as is borne by these instruments in Great Britain.

“In Great Britain the duty chargeable on an instrument purporting to convey property for £500 is 50 shillings (£2-10), whilst that required in respect of a bill of exchange for like amount is 5 shillings, *i. e.*, the duty on a conveyance-instrument is equal to ten times that on a bill of exchange.

“In India, under the present law, the duty on an instrument of conveyance of property for rupees 5,000 consideration is rupees 50, whilst that on a bill of exchange for a like amount is rupees 3, *i. e.*, the duty on a conveyance is more than sixteen times that on a bill of exchange.

“This duty on conveyances has been in force for many years, and is nothing new. All that is proposed is to raise the duty on bills to the English level or proportion of one-tenth of the duty on conveyances.

“Again, we propose to raise the minimum duty upon bonds and the like from two annas to four annas. This increase will not, we believe, injure any one; but, inasmuch as it will affect a large mass of documents, we hope that it will produce an appreciable addition to our revenues.

“Lastly, we propose to make receipts for more than rupees 10 subject to the one-anna duty, instead of receipts for more than rupees 20 as at present, and to endeavour to enforce this duty more completely than heretofore.

“There seems to be an impression that we intend also to increase the taxation by Court-fees: but this is not the case. For convenience sake, we have united the two laws in one enactment, but without in any way

amalgamating or confusing them: the only change proposed in the Court-fees division of the law is the reduction of the fees on suits in the Courts of Small Causes in the Presidency-towns from 12½ per cent. to 10 per cent., and the increase of the fees in the same Courts in the interior from 7½ per cent. to 10 per cent. It is possible that this change may yield some increase of revenue; but our object is rather the furtherance of the policy for the general assimilation of procedure in all the Courts at which we have, for some time, been aiming.

“For the sake of my own consistency, having often in past times protested against the imposition of taxes on the administration of justice, I must express my great regret that we do not at present see our way to the reduction of the existing fees. I hope that better times may come.

“A small increase is also proposed on Letters of Administration and Probates from two to two and a half per cent. But the two per cent. duty on these documents has been from the first regarded as tentative only: the addition of half per cent. seems to us to be fair and moderate.

“In concluding these remarks, I wish to acknowledge the great care and ability and labour bestowed by our hon'ble colleague Mr. Cockerell on the elaboration of this measure. The Acts of 1869 and 1870 were the work of our hon'ble colleague, and they have on the whole worked remarkably well. Under their operation, the revenue has risen by about one-fifth, namely, from 227 lakhs to 274 lakhs of rupees. It is in my opinion not at all surprising that these Acts should now, after seven years' experience, require amendment. It is fortunate that we have again had the benefit of my hon'ble friend's services in a matter in which his experience is pre-eminent; but it must be understood that while he has thus kindly relieved me from a laborious duty, the measure is none the less a measure for which the Government of India is entirely responsible.”

The Motion was put and agreed to.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble Mr. STOKES asked leave to postpone the motion for leave to introduce a Bill to amend the first schedule to the Code of Civil Procedure.

Leave was granted.

SUNDRY BILLS.

The Hon'ble Mr. STOKES moved that the Hon'ble Mr. Evans 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.

The following Select Committee was named :—

On the Bill to consolidate and amend the law relating to Stamps and Court-fees—The Hon'ble Sir J. Strachey, the Hon'ble Messrs. Stokes and Colvin, the Hon'ble Mahárájá Jotíndrá Mohan Tagore, the Hon'ble Mr. Hope, the Hon'ble Nawáb Faiz Ali Khán, the Hon'ble Mr. Evans and the Mover.

The Council adjourned to Wednesday, the 19th December 1877.

CALCUTTA :
The 12th December 1877.

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D. FITZPATRICK,
Secy. to the Government of India,
Legislative Department.