

*Friday,
14th January, 1887*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXVI

Jan.-Dec., 1887

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OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

VOLUME XXVI



Published by the Authority of the Governor General.

CALCUTTA :

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1888.

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 Friday, the 14th January, 1887.

PRESENT:

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

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

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble R. Steel.

The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.

The Hon'ble Rao Saheb Vishvanath Narayan Mandlik, C.S.I.

The Hon'ble Rana Shankar Bakhsh Singh Bahadur, C.I.E.

The Hon'ble Syud Ameer Hossein.

The Hon'ble Peári Mohan Mukerji.

The Hon'ble W. S. Whiteside.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved that the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs be referred to a Select Committee consisting of the Hon'ble Mr. Peile, the Hon'ble Mr. Steel, the Hon'ble Rao Saheb Vishvanath Narayan Mandlik and the Mover.

The Motion was put and agreed to.

GENERAL CLAUSES BILL.

The Hon'ble MR. SCOBLE also moved that the Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor General in Council, and for other purposes, be taken into consideration. He said:—

“This is in continuation of the Act passed in 1868 for avoiding the repetition in every Act of this Council of certain formal clauses and definitions

14 GENERAL CLAUSES; SEA CUSTOMS ACT, 1878, EXCISE ACT,
1881, AND TARIFF ACT, 1882, AMENDMENT.

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which are necessary to secure the proper operation of those Acts. The Bill which I now ask the Council to pass is the result of eighteen years' experience in the Legislative Department. It has been very carefully considered both in the Legislative Department and by the Select Committee, and I think it will prove a very useful addition to the Statute-book."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

SEA CUSTOMS ACT, 1878, EXCISE ACT, 1881, AND TARIFF ACT,
1882, AMENDMENT BILL.

The Hon'ble SIR A. COLVIN moved that the Bill to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also moved that in section 9 of the Bill, line 2, after the word "Act" the following words be inserted, namely:—

- (a) 'Rs. 5' shall be substituted for 'Rs. 4' in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of 'Liqueurs'; and
" (b) ".

He said it had been brought to his notice, subsequent to the introduction of the Bill last Friday, that while the rate of duty on imported liquor was raised from Rs. 4 to Rs. 5, mention of liqueurs had been omitted. In the previous Act the duty on liqueurs was the same as on other imported liquor. The object of the amendment was to restore the former state of affairs.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said:—"I have to move an amendment having for its object the further raising of the import-duty on perfumed spirits. It has been urged upon me since the last meeting of this Council that to maintain the duty on perfumed spirits at Rs. 6 per imperial gallon will not entirely attain the object we have in view, which is to put an end to this illicit

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trade in liquor in the guise of perfumed spirits, and that we must not only impose the duty on all perfumed spirits, in whatever quantity imported, but must also raise it. In England the rate on perfumed spirits is 16s. 6d. as against 10s. 5d. on ordinary spirits, or more than half as much again; and it is now proposed to impose on perfumed spirits a rate of Rs. 7-8 instead of Rs. 6, which was the original figure in the Bill, as against Rs. 5, the duty to be imposed upon ordinary spirits. The amendment, therefore, which I have to propose is that Rs. 7-8 be substituted for Rs. 6 in section 9 as the rate of duty to be levied and collected per imperial gallon or six quart bottles on perfumed spirits whether in wood or in bottles."

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN said :—

"I have another word to add, before proposing that the Bill be passed, with reference to a representation which reached me this morning from one of the principal firms connected with the importation of European liquor from which I will briefly quote, adding what I have to say in reply to it. The firm say :—

'We respectfully beg to point out that the incidence of the duty is 25 per cent. more than on that now levied, and that no case spirit (that is, in bottle) is imported at any thing like the strength, 25 per cent., under London proof to which the duty is proposed to be augmented. Consequently the enhancement is virtually an additional impost on the spirit trade. As an illustration we mention Hollands gin, which is usually imported in cases of 15 squares measuring 4 gallons (nearly) per case, the spirit being London proof. This gin costs 11s. (eleven shillings) per case or, at 1s. 5½d. per rupee, Rs. 7-7, and already pays the enormous duty of Rs. 16 per case, or more than double its value. The increased impost at Rs. 5 per imperial gallon will be equal to Rs. 20 per case, or very nearly three times cost price of gin.

'As we understand the object of the additional impost on a sliding scale was to give relief to importers of spirits under London proof, it will be seen that such object is greatly nullified by the enhancement of the duty, which becomes tantamount to an additional burthen on the spirit trade.

'We believe the exigencies of the State do not call for the additional duty, and, if the measure is not intended to be one of relief, the reason of it is unnecessary.'

"It has never been denied that the enhancement of duty is virtually an additional impost on the spirit trade, but the grounds upon which it was found necessary to make that enhancement were, I hope, sufficiently explained at the

[*Sir A. Colvin; Mr. Scoble.*]

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last meeting of the Council, and will be found carefully stated in the remarks which I made on that occasion. The object of the Government, as I then stated, was not to increase the excise-revenue, but to meet the representations which the Trade had put before it, and the abuses which had come independently to its knowledge, by arranging that the excise-duty should fall equitably upon all classes of imported liquor, while its own revenue should be subjected to no loss. With every desire to meet the wishes of those who are engaged in the import of European liquor, it is impossible, for the reasons which I gave at the last meeting of this Council, to make any other arrangement than that which I propose, which shall at once guard the trade from improper advantage being taken of the mode in which the duty is levied and protect the Government revenue. I now move that the Bill, as amended, be passed."

The Motion was put and agreed to.

INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, be taken into consideration. He said:—

"This is a short Bill for the purpose of giving to revenue-officers in the discharge of their duties when conducting prosecutions before Magistrates the same protection as is now given to police-officers. It was found very necessary, in the prosecution of offences against the revenue laws, that revenue-officers should not be compelled to disclose, upon cross-examination, the names of the informers upon whose information the authorities have acted, and the object of this Bill is to give that protection to revenue-officers. As the Bill was originally drafted, the protection given to revenue-officers appeared to the Select Committee to be rather too wide. In the Bill as amended it is proposed to give that protection only in cases in which they are called upon to give evidence in regard to infractions of the revenue laws."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

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[*Mr. Peile; Major-General Chesney.*]

INDIAN MUSEUM BILL.

The Hon'ble MR. PEILE moved that the Report of the Select Committee on the Bill to alter the constitution of the body corporate known as the Trustees of the Indian Museum, and to confer certain additional powers on that body, be taken into consideration. He said:—

“The objects of this Bill were explained to the Council by Sir Stuart Bayley in May last when he obtained leave to introduce the Bill. They are briefly—first, to alter the constitution of the Trustees of the Museum as fixed by Act XXII of 1876, and to provide for the representation of the Government of Bengal in that body; next to empower the Trustees to take over from the Bengal Government the custody of certain collections; and thirdly, to empower the Trustees to deliver over to the Bengal Government certain lands defined in the schedule and now possessed by the Trustees for the purposes of the Trust. The amendments proposed by the Select Committee are two: one of these is in section 5, by the substitution for the words ‘from India’ of the words ‘from the meetings of the Trustees’, in order to increase the efficiency of that body. The other amendment is in section 6, by the addition of the words ‘all or any part of’, so as to enable any part of the property mentioned in the schedule to be dealt with as desired.”

The Motion was put and agreed to.

The Hon'ble MR. PEILE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INDIAN MARINE BILL.

The Hon'ble MAJOR-GENERAL CHESNEY moved for leave to introduce a Bill for the better administration of Her Majesty's Indian Marine Service. He said:—

“The object of this Bill is so fully stated in the title that it is not necessary for me to trouble the Council at any length in introducing it. But I may briefly explain that its object is to give legal sanction to the establishment of the body which is now known as the Indian Marine Service. This service, although under its present constitution it has had an existence of only about ten years, is really the outcome of a very much older body. A marine service of some sort has been in existence in connection with the Government of India ever since the British have had territorial jurisdiction in any part of the country. The service which performed the duties of a marine service was

constituted considerably more than a hundred and forty years ago, and was employed in connection with the Royal Navy in all the various operations which have taken place at sea or land through that time. It was not until 1798, however, that any distinct designation was given to the service. It was then, under the authority of the Court of Directors, denominated the Bombay Marine. I am speaking of that part of the service which was employed on the western side of India; but although the officers composing it had on board their different vessels a sort of recognized authority, even then no legal sanction was given to the constitution of this service. But in the year 1830 the Court of Directors of the East India Company, by the authority vested in them under various Acts of Parliament, declared this body to be the Indian Navy. It then became for the first time a recognized combatant service, and the officers composing it took rank with the officers of the Indian Army, having like them local rank, and also with the officers of the Royal Navy, ranking next below them. This Indian Navy was, as I have said, a combatant body, and was largely employed in various maritime operations not only in the Indian seas, India, but in China and elsewhere, when the East India Company were engaged in maritime operations. It seems open to question, however, whether this force had any competent jurisdiction on the high seas; although the East India Company had power under the law of England to raise forces and employ them in the East, it appears at least doubtful whether they had any authority to employ vessels of war upon the high seas. But however that might be, the authority was never questioned, and this force did excellent service both on sea and land until the date of the transfer of the administration of the Government of India from the East India Company to the Crown, when it was determined that while the local constitution of the Indian Army should be transformed, this Indian Navy Service should be abolished. And accordingly in 1863 this service, in one form or another of more than 150 years' standing, came to an end—a service, I may observe, which was not only most useful, but was an extremely economical service. Well, although the Indian Navy was abolished, it was found immediately necessary to have a Marine Establishment of some sort to carry on various services, such as the transport of troops from port to port, and so forth, and for guarding those maritime possessions which could not be taken care of by the Royal Navy to the full extent; and accordingly a Bombay Marine Service was established for the west of India, which continued in force until the year 1877 under the Government of Bombay. This service was essentially a non-war service, but was mainly employed in civil duties in connection with the Government. On the eastern side of India, moreover, there has been also, from the earliest times, a Bengal Marine Service; and although it has never had any definite recognition

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from the East India Company or from any other authority, it has been at different times largely employed in very useful service, including the China War of 1842 and other operations. That service continued under the name of the Bengal Marine until the year 1877, when it was determined to amalgamate it with the Bombay Marine, and the whole became an amalgamated service. That is the service with which we are now concerned. This service, as I have explained, has at present no legal sanction, because it does not come under the Mercantile Marine Act, nor does it come under the Acts applicable to the Royal Navy. Nevertheless, it has done very useful public service and has got on very well without any definitive legal status. And it may be explained that the reason for this Bill is not in consequence of any alleged misconduct or want of good discipline on the part of the Indian Marine, because the Government has had every reason to be quite satisfied with the conduct of both officers and men, but simply to supply what is an anomaly in its present constitution. The fact is that the Indian Marine, I may say, reflects, in a kind of indefinite way, the result of the discipline of the bodies with which it was associated, namely, the Army and the Royal Navy. It was well observed by Mr. John Stuart Mill that it is not the people who have recourse to Law Courts who benefit most by them, but the people who have no need to go to law who are really benefited by the Law Courts. And so you may say that the Indian Marine, although it has no law of its own, has derived a great deal of benefit from the regulations and laws which govern the bodies—the Army and the Navy—with which it is associated. But it is certainly desirable that it should become a legally recognized body; and accordingly Her Majesty's Government introduced into Parliament in 1884 and passed into law a Bill which empowered the Indian authorities to make laws and regulations for the good government of the Indian Marine. That is the object of the present Bill, which in form closely resembles the clauses of the Marine Discipline Act and the Articles of War which govern the Royal Navy. This Bill will only have effect in Indian waters, the Red Sea, and east of the latitude of the Cape of Good Hope, just as in the olden times it was not contemplated that the service should be employed outside Indian waters. Further, the duties of the service are contemplated to be of a non-warlike character, such as the transportation of troops, the suppression of piracy and generally the police of those parts of the seas which are not reached by Her Majesty's ships. But the Bill also provides, and the enabling Act of Parliament also provides, that in case of war the whole service, if necessary, should come under the authority of the Royal Navy, and should in fact for the time form part and parcel of the Royal Navy, qualified to act as a combatant force."

The Motion was put and agreed to.

The Hon'ble MAJOR-GENERAL CHESNEY also introduced the Bill.

The Hon'ble MAJOR-GENERAL CHESNEY also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort Saint George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 28th January, 1887.

S. HARVEY JAMES,

Offg. Secretary to the Govt. of India,

Legislative Department.

FORT WILLIAM;
The 21st January, 1887. }