

*Friday,
18th January, 1889*

ABSTRACT OF THE PROCEEDINGS

OF THE

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,

1889

VOLUME XXVIII



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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 Vict., cap. 67.

The Council met at Government House on Friday, the 18th January, 1889.

PRESENT :

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

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

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

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

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

The Hon'ble P. P. Hutchins, C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble R. Steel.

The Hon'ble Sir Dinshaw Manockjee Petit, Kt.

The Hon'ble F. M. Halliday.

The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Mahárájá of
Vizianagram.

The Hon'ble Syud Ameer Hossein, C.I.E.

The Hon'ble Rájá Durga Charn Laha, C.I.E.

The Hon'ble Maung Ôn, C.I.E., A.T.M.

METAL TOKENS BILL.

The Hon'ble SIR DAVID BARBOUR presented the Report of the Select Committee on the Bill to prohibit the making or issue by private persons of pieces of metal for use as money and the making of coins in resemblance or similitude of coins of Foreign States.

The Hon'ble MR. STEEL said :—“Under ordinary circumstances the proper occasion for discussing the principle of this Bill should have presented itself on the Motion to refer it to a Select Committee, but, as that stage was passed at Simla, I take the first opportunity of making a few observations. The Hon'ble Mr. Westland, when introducing the Bill, clearly showed the need for legislation to protect the public from the loss and inconvenience caused by the present condition of the copper currency, and to secure for the revenue any profit which may accrue from the issue of token coinage. There will be general agreement

concerning the nature of the evils to be remedied, but there is room for difference of opinion regarding the best means of accomplishing this object.

“The Bill proposes to prohibit the manufacture and importation of unauthorised coin and to forbid the receipt of such coin by any local authority or railway administration, but it does not prohibit the ordinary circulation of the coin now in existence. It thus appears that the Bill strikes at only one of the evils that have been described. It does not propose to redress the existing inconvenience to the public, and may even increase this inconvenience by depriving the holders of those coins of some of the outlets by which they could have got rid of them.

“The Bill will certainly tend to secure for the revenue the profit accruing from the issue of token coinage, but it will only partially achieve this object. While the circulation of unauthorised coin is permitted there will be temptation to import it, and the importation can only be effectually prevented by stringent inquisitorial and punitive measures which the Government will be unwilling to put in practice. It will be observed that the Committee, for good and sufficient reasons, recommend that offences under this Act shall not be cognizable; that is to say, the law shall only be put in force under the order of a superior Magistrate, and the police shall not be allowed to interfere with the public of their own motion. Under these conditions preventive measures cannot be completely successful. Now, my Lord, we could have effectually accomplished all our objects by preventing the circulation of unauthorised coin altogether. In this case it would have been necessary in the interests of the poor that Government should undertake the buying up of all the pieces of metal in circulation by giving in exchange for them our own current copper coins. It would also have been necessary to give long notice—possibly two years’ notice—of the intended conversion. With these safeguards the interests of both the public and Government would have been completely served, and it remains only to consider whether the cost of conversion could have been prohibitive. Now, it is understood that at the ruling exchange these pieces of metal are worth intrinsically more than our own copper coins, and the operation might presumably be carried out at small cost. The production of the large quantity of coins required might cause a strain upon our Mints, but these are not fully employed, and if necessary we might import coin from Birmingham, and probably do this as economically as we can make it for ourselves.

“If such a plan were adopted, it might possibly be found that the interval of two years might be employed to pour unauthorised coin across our frontier,

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[*Mr. Steel; Sir David Barbour.*]

but, if this apprehension were justified, there would be much less objection to stringent preventive measures to be adopted for a limited period, than to the same measures which under the present Bill may possibly become a permanent administrative necessity.

“Having said so much, my Lord, I may be asked why I have signed the report of the Select Committee recommending the passing of this Bill. To this the reply must be that it is not my function to initiate legislation but to advise upon measures brought before this Council by a responsible Government.

“I think the Bill will do some good in itself. I believe it proceeds in the right direction, and I hope it may lead the way to the bolder and larger measure which, in my opinion, will alone be completely successful. I look upon the Bill as a palliative in preparation for a radical cure.”

The Hon'ble SIR DAVID BARBOUR said :—“I should like to explain very briefly why the more stringent measures recommended by the Hon'ble Mr. Steel have not been adopted. Like him I am of opinion that these pieces of metal in resemblance of coin should not be allowed to circulate as money. But, if the Government were now to offer to buy up the whole of the unauthorized currency in circulation in the country, it must do so either at its value as copper—a course which would impose great loss upon the present holders of such coin, persons who are quite innocent holders—or it must offer to buy these pieces of metal at their nominal value, a course which would involve considerable loss to Government. Another objection is that, if it were known that we were buying these pieces of metal at their nominal value, they might be largely manufactured in order to be sold to the Government, and we should be buying copper at a large percentage above its real value.

“But a still more serious objection is that, in many districts of India, these pieces of metal are in common circulation, and the people are not accustomed to the use of our coin; it would be a severe measure entirely to prohibit the circulation of coin to which people are accustomed, and might cause great confusion in remote bázárs and villages and among ignorant people. On the whole, therefore, I think the course which the Select Committee has taken is the best; that is, that we should prevent the manufacture of these pieces of metal as far as possible, and prevent them from being imported into British India and put into circulation, and take some steps towards discouraging their use. If we find hereafter that the quantity of unauthorised coin is increasing in circulation, it will no doubt be necessary to take some further step such as

[*Sir David Barbour ; Sir Charles Elliott.*] [18TH JANUARY,

that suggested by my hon'ble friend. I hope that may not be the case, but, if it is, it will have to be dealt with by further legislation in the way proposed."

The Hon'ble SIR CHARLES ELLIOTT said :—" I have only one remark to make in reference to what has fallen from the Hon'ble Mr. Steel, who made the suggestion that, whereas the Government will incur considerable loss in buying up this coin and withdrawing it from circulation, it might be able to recoup itself by the gain which will be obtained by the issue of its own copper coinage in the place of that which is withdrawn. I may mention that on behalf of the Finance Committee I undertook the investigation of the accounts of the Mints two years ago, and we came to the conclusion (in which I believed the Financial Department also agreed) that the gain on the copper coinage was extremely small, and in fact almost infinitesimal, and there would probably be no such profit to Government from the circulation of its own coin as the Hon'ble Mr. Steel has suggested."

SALT-DUTY BILL.

The Hon'ble SIR DAVID BARBOUR also moved for leave to withdraw the Bill to regulate the payment of duty in respect of Salt where there has been an alteration of the rate of duty payable in respect thereof. He said :—

" The circumstances under which it was thought necessary to introduce this Bill were explained by the Hon'ble Mr. Westland when the Bill was introduced in July last.

" The sufficiency of the grounds for the proposed legislation are beyond question. It is a cardinal principle of all taxation that as little as possible should be taken from the pockets of the people over and above what is added to the revenue of the State. But the first proviso to section 37 of the Sea Customs Act, 1878, operates in the direction of taking money from the public which is not added to the revenue of the State but merely put into the pockets of those importers of salt who are fortunate enough to have their ships at sea when the rate of duty on salt is raised. Proceedings of this nature are wholly unjustifiable, and I do not propose to withdraw the Bill on the ground that its provisions are unnecessary or inexpedient, but on the general ground that the Bill does not go far enough, that, in short, the law which it was proposed to apply to salt should also be applied to all other imports.

" There is as little justification for transferring money from the pockets of the public to the pockets of a small number of importers of (we will say) iron or

*SALT-DUTY; AMENDMENT OF SEA CUSTOMS ACT, 1878, AND 7
INDIAN TARIFF ACT, 1882.*

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[*Sir David Barbour.*]

steel, chosen at hazard, as there is for transferring money in the same way to the pockets of a few fortunate importers of salt.

“The principle on which the present Bill is based was recognised by the Hon’ble Mr. Westland to be as applicable to the imports of other goods as to the imports of salt, though the amount of money at stake may not be so great, in proportion to the value of the goods, as in the case of salt. But since the Bill was introduced the Secretary of State for India has suggested that the proposed legislation should be made applicable to all imports and not to salt alone; and I believe I am correct in saying that the members of the Select Committee to whom the Bill was referred were unanimously of the same opinion. The proposal to withdraw the present Bill is, therefore, merely preliminary to my moving for leave to introduce a Bill dealing in the manner proposed with all other articles of import as well as with salt, and needs no lengthy justification at my hands.

“I may as well mention that the proposal to deal with the whole question in a comprehensive manner must not be taken to indicate that the Government of India has any intention of re-imposing the import-duties.”

The Motion was put and agreed to.

SEA CUSTOMS ACT, 1878, AND INDIAN TARIFF ACT, 1882, AMENDMENT BILL.

The Hon’ble SIR DAVID BARBOUR also moved for leave to introduce a Bill to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882. He said :—

“In moving for leave to withdraw the Bill to regulate the payment of duty on salt I have already indicated generally the nature of the legislation which is now proposed, and I need not go over the same ground again.

“The first proviso to section 37 of the Sea Customs Act, 1878, runs as follows :—

“Provided that, when such rate or valuation has been raised after the grant of port-clearance at the port of shipment, the rate and valuation applicable to such goods shall be the rate and valuation in force on the date of such grant.”

8 AMENDMENT OF SEA CUSTOMS ACT, 1878, AND INDIAN
TARIFF ACT, 1882.

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“This is the proviso which, for reasons with which this Council is now familiar, it is proposed to entirely repeal. This proviso met with much opposition when it was first proposed. I do not think it will find a single defender in the present day, and, so far as I am aware, no similar provision is to be found in the laws of any other country. I need not waste time by considering it any further. But, on repealing this proviso, it is proposed to substitute for it in the Indian Tariff Act, 1882, a provision which met with opposition when the present Sea Customs Act was being passed into law, and which in consequence of such opposition was not inserted in the Act as finally passed. I refer to a provision under which, if a contract is made for the sale of goods without any stipulation as to payment of duty, and a duty is imposed, or the previously existing rate of duty raised or lowered, before the contract is fulfilled, the buyer or seller, as the case may be, has the right of lowering or raising the price by a sum equal to the rate of duty imposed for the first time on the goods, or by the amount by which such duty has been either raised or lowered. An almost exactly similar provision is found in the English law, and I confess I can see no valid objection to it. If it is inoperative in any case, it does neither harm nor good, and whenever it is operative it removes what might be a serious risk. It has been said that this risk of the alteration of duty, or the imposition of a new duty, is a fair mercantile risk, and that no legislation is required. I trust that I may not be considered an advocate of unnecessary legislation, but I do hold the opinion that all risks are an evil, and that the fewer the risks to which commerce is exposed the better; all that is claimed for the proposed change is a full and fair consideration on the merits.

“And, as we are dealing with the Indian Tariff Act, it is proposed to make one or two slight changes with a view to clearing up doubt as to the meaning of the Act. The first change is merely the alteration of the position of a bracket in the schedule in the Act which has on one or two occasions caused doubt as to whether the words ‘all other sorts’ meant ‘all other sorts of gunpowder’ or ‘all other sorts of arms, ammunition and military stores.’ The latter is the correct interpretation, and this will now be made clear.

“The other alteration is merely the defining of ‘arms’ and ‘ammunition’ in the sense in which these terms are used in the Indian Arms Act, 1878, and the application to the Indian Tariff Act of the same procedure for declaring what articles come under the head of ‘military stores,’ which is at present in force in the Indian Arms Act.

AMENDMENT OF SEA CUSTOMS ACT, 1878, AND INDIAN 9
TARIFF ACT, 1882.

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[*Sir David Barbour.*]

“ That procedure enables the Governor General in Council, by notification in the Gazette of India, to declare from time to time what articles shall be included under the head of ‘ military stores ’ for the purposes of the Indian Arms Act, and it will obviously be convenient that the same procedure should be followed under the Indian Tariff Act.”

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also introduced the Bill.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local Official Gazettes 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 1st February, 1889.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

FORT WILLIAM; }
The 23rd January, 1889. }