

JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1924

The Land Customs Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1924.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Central Board of Revenue Bill.	18.2.24.	
2.	The Indian Coinage Bill.	18.2.24.	
3.	The Indian Penal Code (Amendment) Bill.	19.2.24.	
4.	The Indian Tariff (Amendment) Bill.	26.2.24.	
5.	The Indian Income-tax (Amendment) Bill.	10.3.24.	
6.	The Indian Penal Code (Amendment) Bill (Age of Consent) by Dr. Hari Singh Gour.	15.3.24.	
7.	The Steel Industry (Protection) Bill.	30.5.24.	
8.	The Imperial Bank of India Bill.	8.9.24.	
9.	The Indian Criminal Law (Amendment) Bill.	10.9.24.	
10.	The Indian Merchant Shipping (Amendment) Bill.	11.9.24.	
11.	The Land Customs Bill.	11.9.24.	

LEGISLATIVE DEPARTMENT.

We the undersigned Members of the Select Committee to which the Bill to consolidate, amend and extend the law relating to the levy of duties of customs on goods imported or exported by land from or to British India was referred have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. The first question for our consideration was the question whether, and to what extent, the machinery provided by the Bill should be applicable for the purpose of levying land customs duties on goods imported from, and exported to, Indian States, and we agree that the provisions of the Bill which are more drastic than those of the *Indias Act VI of 1844* and the *Bombay Act XXXI of 1837*, should be confined in their application only to the import and export of goods from and into foreign countries, including the European Settlements in the Continent of India. As regards the further question whether the *Madras and Bombay Acts* should be kept in force for the purpose of providing machinery for the levy of land customs duties on goods passing between those provinces and the Indian States which are contiguous with them, respectively, we think it is only reasonable to maintain the law as it exists at present. We understand that it is not the present intention or desire of Government to establish a customs barrier between British India and any of these States, but we realize that the preservation of machinery which could be used for the purpose of enforcing in respect of these States the power conferred by section 5 of the *Indian Tariff Act, 1894*, is important, in view of the possibility, however remote, of an emergency necessitating the use of the power. We have decided, therefore, to leave the old *Madras and Bombay Acts* in force in case they are needed for such an emergency. In other words, we leave the law precisely as it stands at present as regards Indian States. This involves, besides minor amendments, an alteration in sub-clause (f) of clause 2, the substitution of a new clause for clause 10, and the omission of the Second Schedule.

3. We now proceed to refer in detail to the other amendments which we have made in the Bill.

Clause 5.—Whilst we agree that the possession of a permit is an essential condition to the import or export of any goods, whether dutiable or not, we see no reason to allow the confiscation of non-dutiable goods which are being passed across a foreign frontier without a permit, although we retain in clause 7 a small penalty for this infraction of the law.

Clause 7.—We agree that the abettor of an offence under this clause should be punishable and have, therefore, inserted the amendment of which

notice was given by the Honourable Sir Basil Blackett. We have further reduced the penalty in the case of non-dutiable consignments and provided that only dutiable goods should be liable to confiscation.

We discussed at some length a suggestion that the penalty provided by this clause should only be imposed after conviction of the offender by a Criminal Court. A majority of us are of opinion that such a departure from the ordinary methods of customs administration would be inadvisable, either in the interests of Government or of the offending party, both of whom would be put to considerable additional expense and inconvenience by the adoption of such a procedure. Those of us who favour the rejection of the suggestion are further of opinion that sections 182 and 188 of the Sea Customs Act which are applied by clause 9 of the Bill confer ample guarantee of impartial justice to offenders.

Clause 9.—The only other alteration which we have made in the Bill is the omission from the Schedule of section 168 of the Sea Customs Act. In view of the fact that an abettor is punishable under clause 7 and that some members of our Committee feel that the section if applied might be open to abuse, we consider that the power to confiscate vehicles and animals used in the carriage of goods liable to confiscation under the Bill might be relinquished, even though the power might in some cases be useful as an aid to the prevention of smuggling.

4. The Bill was published in the Gazette of India, dated the 6th September, 1924.

5. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

BASIL P. BLACKETT.

A. H. LLOYD.

C. A. INNES.

M. RAMACHANDRA RAO.

M. A. JINNAH.

N. M. DUMASIA.

V. J. PATEL.*

HUGH G. COCKE.

JAMNADAS M. MEHTA.*

N. C. KELKAR.

The 10th September, 1924.

* Subject to minutes of dissent.

MINUTES OF DISSENT.

The Bill as it originally stood before reference to the Select Committee, including as it did all the Indian States violated the fundamental principle of representative government, viz., in all vital matters those to whom legislation is to affect must be consulted; by the removal of the Indian States from the operation of the measure that vital principle has been preserved.

I should have liked that all Indian States having no ports of their own had been secured against any legislation of that kind in future but that would not perhaps have been strictly germane to the Bill and as a permanent measure is going to be introduced next year the question can be raised at that time.

JAMNADAS M. MEHTA,—10-9-24.

I differ from the majority report on two points. Firstly, I do not agree that the powers vested in the Government to create a customs barrier between British territory and Indian States by the Bombay and Madras Acts should be allowed to continue. I am not satisfied with a mere statement by the Select Committee that Government have no present intention of creating any such barrier. I think that opportunity should have been taken to provide that notwithstanding anything contained in those Acts no customs barrier between British India and any of the Indian States should be created by Government except by a resolution of the Assembly. I have no faith in the assurances or promises of Government. I would therefore like such assurances or promises to be embodied in an enactment. Secondly, it was proposed in the Select Committee that the power to punish persons charged with breaches and any of the provisions of the Bill should not be given to the Customs authority. Unfortunately this proposal was lost by the vote of the Chairman. In my opinion this power offends against the elementary principle of criminal jurisprudence that no man can be a judge in his own cause; the power vested in the customs authorities whose business it is to detect offences under the Bill makes the prosecutor also the judge.

V. J. PATEL,—10-9-24.

In my opinion Sections 4 and 5 are too generally worded. They should be so worded as to apply only to "Dutiable goods". Before putting the act into operation Government will have to make up their mind from time to time as to the goods on which they wish to levy customs duty. And when that is done they can have no concern with the goods which may not be liable to pay that duty according to their Tariff. The purpose of Government would be fully satisfied if they could enforce and secure the diversion of only dutiable goods by the prescribed routes. If traders would of their own accord, and for their convenience, bring non-dutiable goods along with dutiable goods in Custom's Station that is their own look

out. But there would be no justification whatever for putting the owners or purveyors of non-dutiable goods to the trouble and the hardships of taking them all the way to a Custom's Station, which may conceivably be miles away from their place of business. The degree of hardship involved can be easily imagined, when we take into account the fact that the land frontier is often only an imaginary line, and people, living and doing business on either side of it, are engaged in trade and have to carry in and out every day, across the technical border line, quite a mass and variety of goods of daily use and consumption of which dutiable goods may be but a small fraction. Now, as Section 7 makes the unauthorised traffic across the frontier, even in non-dutiable goods, punishable with a fine up to Rs. 50 a lever of harassment and black-mail will have been given in the hands of petty Police officers against common people. It is absurd to include traffic in non-dutiable goods under smuggling and make it punishable, though with, however, small a fine.

The argument that the Sea Customs Act applies to all goods indiscriminately, even if it were correct, cannot have force in the case of a Land Customs Act, because the conditions of waterway traffic and land traffic are different.

It is argued that the hardship, if any, would apply only to inhabitants of foreign countries. But in the first place the hardship may possibly apply even to residents of British territory, as even export is covered by the penal clause and as abetment of the offence in Section 7 is made punishable by Section (c) newly added to the original Bill. Secondly, even subjects of avowedly Foreign countries ought not to be so lightly treated, though every other legitimate and even harsh measure should be adopted to secure the full collection of proper customs duty and to punish smugglers of dutiable goods.

In Section 7 there is no provision for a judicial trial before the alleged offender is punished with fine and confiscation of contraband goods. As a matter of principle I am not prepared to vest such large powers in the departmental Executive. The provision for a judicial trial would be only in keeping with similar penal provisions in other Acts.

N. C. KELKAR,—9-9-24.

[As amended by the Select Committee.]

[Words printed in italics indicate the amendments suggested by the Select Committee.]

A

BILL

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Consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside India.

WHEREAS it is expedient to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside India; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Customs Act, 1924.
Short title, extent and commencement.

(2) It extends to the whole of British India (except Aden).

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

- (a) any reference to the passing or import or export of goods "by land" shall be deemed to include the passing or import or export of goods by any inland waterway constituting a foreign frontier or part of a foreign frontier;
- (b) "Chief Customs-authority" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, and includes, in relation to any power or duty which the Governor General in Council may, by notification in the Gazette of India, transfer from the Central Board of Revenue to a Local Government, the Local Government or such officer as the Local Government may appoint in that behalf; IV of 1924.
- (c) "Collector of Land Customs" means a Collector of Land Customs appointed under section 3;
- (d) "dutiable goods" means any article on which a duty of land customs is leviable by virtue of a notification issued under section 5 of the Indian Tariff Act, 1894; VIII of 1894.
- (e) "foreign frontier" means the frontier separating any foreign territory from any part of British India;
- (f) "foreign territory" means any territory (other than territory forming part of a State in India) which has been declared under section 5 of the Indian Tariff Act, 1894, to be foreign territory for the purposes of that Act; VIII of 1894.
- (g) "land customs area" means any area adjoining a foreign frontier for which a Collector of Land Customs has been appointed under section 3; and

- (h) "official Gazette" means, in relation to a notification issued by a Local Government, the local official Gazette, and, in relation to a notification issued by the Central Board of Revenue, the Gazette of India.

3. (1) The Governor General in Council may, by notification in the Gazette of India, appoint, for any area adjoining a foreign frontier and specified in the notification, a person to be the Collector of Land Customs and such other persons as he thinks fit to be Land Customs Officers.

(2) The Governor General in Council may delegate to any Local Government or to the Chief Customs-authority any power conferred upon him by sub-section (1), and the Local Government or the Chief Customs-authority may delegate to any Collector of Land Customs any power to appoint Land Customs Officers which has been so delegated to it.

4. The Chief Customs-authority may, by notification in the official Gazette,—
Establishment of land customs stations and determination of routes.

(a) establish land customs stations for the levy of land customs in any land customs area, and

(b) prescribe the routes by which alone goods, or any class of goods specified in the notification, may pass by land out of or into any foreign territory, or to or from any land customs station from or to any foreign frontier.

5. (1) Every person desiring to pass any goods, whether dutiable goods or not, by land out of or into any foreign territory shall apply in writing, in such form as the Chief Customs-authority may by notification in the official Gazette prescribe, for a permit for the passage thereof, to the Land Customs Officer in charge of a land customs station established in a land customs area adjoining the foreign frontier across which the goods are to pass.

(2) When the duty on such goods has been paid or the goods have been found by the Land Customs Officer to be free of duty, the Land Customs Officer shall grant a permit certifying that duty has been paid on such goods or that the goods are free of duty, as the case may be.

(3) Any Land Customs Officer, duly empowered by the Chief Customs-authority in this behalf, may require any person in charge of any goods which such Officer has reason to believe to have been imported, or to be about to be exported, by land from, or to, any foreign territory to produce the permit granted for such goods; and any such goods which are dutiable and which are unaccompanied by a permit or do not correspond with the specification contained in the permit produced, shall be detained and shall be liable to confiscation:

Provided that nothing in this sub-section shall apply to any imported goods passing from a

foreign frontier to a land customs station by a route prescribed in that behalf.

(4) The Chief Customs-authority may, by notification in the official Gazette, direct that the provisions of this section, or any specified provisions thereof, shall not, in any land customs area specified in the notification, apply in respect of goods of any class or value so specified.

6. A Land Customs Officer empowered in this behalf by the Chief Customs-authority shall pass free of duty any goods imported or exported by land by any passenger, if he is satisfied that the goods are the passenger's personal baggage in actual use.

7. Any person who—

Penalties.

- (a) in any case in which the permit referred to in section 5 is required, passes or attempts to pass any goods by land out of or into any foreign territory through any land customs station without such permit, or
- (b) conveys or attempts to convey to or from any foreign territory or to or from any land customs station any goods by a route other than the route, if any, prescribed or such passage under this Act, or
- (c) aids in so passing or conveying any goods, or, knowing that any goods have been so passed or conveyed, keeps or conceals such goods or permits or procures them to be kept or concealed,

shall be liable to a penalty not exceeding, where the goods are not dutiable, fifty or, where the goods or any of them are dutiable, one thousand rupees, and any dutiable goods in respect of which the offence has been committed shall be liable to confiscation.

8. No goods other than personal baggage or goods belonging to Government or mails shall be delivered or passed at any land customs station, except with the special permission of the Land Customs Officer in charge thereof,—

- (a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or on any day on which the passage and delivery of goods at such land customs station has been prohibited by the Chief Customs-authority by notification in the official Gazette, or
- (b) on any day except between such hours as the Chief Customs-authority may, by a like notification, appoint.

9. (1) The provisions of the Sea Customs Act, VIII of 1878, which are specified in the Schedule, together with all notifications, orders, rules or forms issued, made or prescribed thereunder, shall, so far as they are applicable, apply for the purpose of the levy of duties of land customs under this Act in like manner as they apply for the purpose of the levy of duties of customs on goods imported or exported by sea.

(2) For the purpose of such application the said provisions, notifications, orders, rules and forms may be construed with such alterations as may be necessary or proper to adapt them for the said purpose, but not so as otherwise to affect the substance thereof, and in particular—

- (a) references to bills of entry and to shipping bills shall be deemed to be references, respectively, to applications for permits to import and applications for permits to export such as are referred to in section 5.
- (b) references to a Chief Customs-officer shall be deemed to be references to a Collector of Land Customs,
- (c) references to a Customs-collector shall be deemed to be references to a Land Customs Officer for the time being in charge of a land customs station or duly authorised to perform all, or any special, duties of an officer so in charge,
- (d) references to a custom-house shall be deemed to be references to a land customs station,
- (e) references to a customs-port shall be deemed to be references to a land customs area,
- (f) references to a foreign port shall be deemed to be references to foreign territory,
- (g) references to goods brought by sea to, and to goods shipped or brought for shipment at, a customs-port shall be deemed to be references respectively to goods brought across a foreign frontier into a land customs area and to goods brought to a land customs station for export,
- (h) references to Officers of Customs shall be deemed to be references to Collectors of Land Customs or Land Customs Officers appointed under this Act,
- (i) references to persons on board of any vessel or boat in any port or to persons landing shall be deemed to be references to persons who have entered a land customs area from foreign territory, and
- (j) references to "this Act" shall be deemed to be references to the Sea Customs Act, 1878, as applied for the purposes VIII of 1894 of this Act, or to this Act, as the case may require.

10. Notwithstanding anything contained in section 8 of the Indian Tariff Operation of Acts VI of 1881 and XXIX of 1917. Act, 1894, nothing in the VIII of 1894. Madras Inland Customs Act, 1844, or in the Bombay Land-Customs Act, VI of 1844, 15, shall apply in respect of the levy or collection XXIX of 1857. of duties or customs on articles imported or exported by land from or to any foreign territory as defined in this Act.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill to consolidate, amend and extend the
law relating to the levy of duties of
customs on articles imported or exported
by land from or to territory outside
India ; with the Bill as amended.