

*Friday,
22nd January, 1904*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAWS AND REGULATIONS

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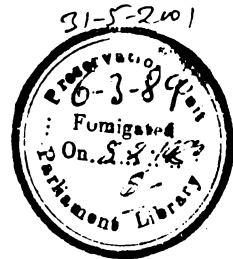
ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1904

VOLUME XLIII



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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 22nd January, 1904.

PRESENT :

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

The Hon'ble Mr. T. Raleigh, C.S.I.

The Hon'ble Sir E. F.G. Law, K.C.M.G., C.S.I.

The Hon'ble Major-General Sir E. R. Elles, K.C.B., K.C.I.E.

The Hon'ble Sir A. T. Arundel, K.C.S.I.

The Hon'ble Sir Denzil Ibbetson, K.C.S.I.

The Hon'ble Rai Sri Ram Bahadur.

The Hon'ble Mr. A. W. Cruickshank, C.S.I.

His Highness Raja Sir Surindar Bikram Prakash Bahadur, K.C.S.I., of Sirmur.

His Highness Agha Sir Sultan Muhammad Shah, Agha Khan, G.C.I.R.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. E. Cable.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. F. S. P. Lely, C.S.I.

The Hon'ble Mr. H. Adamson, C.S.I.

The Hon'ble Mr. A. Pedler, C.I.E., F.R.S.

The Hon'ble Mr. T. Morison.

The Hon'ble Dr. Ramkrishna Gopal Bhandarkar.

The Hon'ble Mr. J. B. Bilderbeck.

The Hon'ble Mr. D. M. Hamilton.

The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

The Hon'ble Dr. Asutosh Mukhopadhyaya, D.L., F.R.A.S., F.R.S.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAI SRI RAM BAHADUR asked the following questions :—

" 1. Will the Government be pleased to state why in the scheme published in the last Calcutta Gazette Japan is not included among the foreign countries to which Indian students proceeding to acquire proficiency in the higher technical education will be granted State scholarships ?

[*Rai Sri Ram Bahadur ; Sir Denzil* [22ND JANUARY, 1904.]
Ibbetson.]

"2. Taking into consideration the importance of agriculture in this country, will the Government be pleased to state why the study of Agricultural Science has been excluded from the scope of this scheme ?

"3. Does the Government contemplate making any separate arrangement, for the acquisition of Agricultural Science by Indian students in foreign countries where that branch of science has made great advancements ?

"4. Will the Government be pleased to state what other branches of industry besides mining will be open for study in foreign countries to the scholarship-holders ?

"5. Will the Government be pleased to state whether the scope of the scheme will be so extended as to enable other Local Governments to award similar scholarships to Indian students of their respective Provinces ? "

The Hon'ble SIR DENZIL IBBETSON replied as follows :—

"The Hon'ble Member has apparently failed to realise that the notification by the Director of Public Instruction, Bengal, to which he refers does not purport to set forth the whole scheme which has been sanctioned by the Government of India, but only so much of it as affects Bengal in the immediate present. The papers on the subject will be published in tomorrow's Gazette of India, which will set forth the whole scheme, and will in large part answer the Hon'ble Member's questions.

"The Government of India doubt whether the training which it is desired to impart can be obtained as well in Japan as in a Western country. Japan is herself still learning of the West ; and it is desirable that our students should obtain their knowledge at first, rather than at second hand. The language difficulty would also place obstacles in the way of students from India. I may inform the Hon'ble Member that the Government have recently deputed some of their Educational officers to study on the spot the manner in which Japan has developed instruction in Western knowledge under Eastern conditions.

"Agriculture has been excluded from the present scheme for several reasons. In the first place, the primary object of the scheme is, by encouraging and facilitating the development of arts and industries other than agriculture, more especially by the aid of indigenous capital and enterprise, to provide diversity of employment for the natives of the country, and to relieve the pressure upon

[22ND JANUARY, 1904.] [Sir Denzil Ibbetson; Dr. Asutosh Mukhopadhyaya.]

the land which results from their energies being almost wholly confined to agriculture. In the second place, the present scheme is far too narrow, if agriculture is to be included among its objects. Moreover, it is believed that the science of agriculture will be studied by natives of India to greater advantage in their own country than in countries where the conditions differ widely from those obtaining here. As I explained in the course of the debate upon the last Budget, it is intended to create a high-class Agricultural College at Púsa; and we do not propose to extend the present scheme so as to include agriculture, at any rate until we know what Púsa will give us.

"It will be seen from the complete papers, when published, that the scheme is not limited either to mining or to Bengal."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked the following questions:—

"I. Will the Government be pleased to state whether it is a fact that, in or about the year 1892, it was proposed to make over the Chittagong Division to the Assam Administration, and the proposal was subsequently dropped? If so, will the Government be pleased to publish all the papers relating to this matter, including the correspondence, if any, that passed between the Government of India, the Governments of Bengal and Assam and the Calcutta High Court?

"II. (a) Will the Government be pleased to state whether it is a fact that, in or about the year 1896, the question of the transfer of the Chittagong Division to the Assam Administration was revived and referred by the Government of India to the then Lieutenant-Governor of Bengal and the then Chief Commissioner of Assam? If so, will the Government be pleased to direct that their reports be published or laid on the table?

"(b) Will the Government be pleased to state whether it is true that the Calcutta High Court and all the District Judges in the Chittagong Division were consulted on the subject of the proposed transfer in or about the year 1896? If so, will the Government be pleased to direct that their opinions be published or laid on the table?

"III. Will the Government be pleased to state whether it is a fact that Mr. (now Sir Henry) Cotton, when Chief Commissioner of Assam, opposed the project of transferring the Chittagong Division to the Assam Administration? If so, will the Government be pleased to direct that the opinion recorded

[Dr. Asutosh Mukhopadhyaya.] [22ND JANUARY, 1904.]

or the report submitted by Mr. Cotton on this matter be published or laid on the table ?

"IV. Will the Government be pleased to state whether it is true that, in or about the year 1896, when the Chittagong Division was proposed to be transferred to the Assam Administration, Dacca and Mymensingh were not contemplated to be included in the scheme of transfer ? If so, will the Government be pleased to state the specific reasons which have led them to change their views since 1896 and to propose their transfer in 1903 ?

"V. Will the Government be pleased to state whether the Government of Bengal, the Government of Assam and the Calcutta High Court were consulted before the scheme of transfer now under consideration was framed ? If so, will the Government be pleased to publish the opinions submitted by them ? If not, will the Government be pleased to consider the desirability of consulting the said authorities before further action is taken in the matter ?

"VI. (a) Will the Government be pleased to state whether the financial effect of the proposed scheme of transfer of the Chittagong Division and of the Districts of Dacca and Mymensingh to the Assam Administration has been considered ?

"(b) Will the Government be pleased to state what reduction will be effected in the expenditure annually incurred by the Government of Bengal if the scheme of transfer referred to in clause (a) be carried out ?

"(c) Will the Government be pleased to state by what amount the gross annual receipts of the Government of Bengal would be reduced if the scheme of transfer referred to in clause (a) be carried out ?

"(d) If the figures furnished in answer to clauses (b) and (c) show that the aforesaid scheme of transfer will result in a financial loss to the Government of Bengal, will the Government be pleased to state how it is proposed to recoup that loss ?

"VII. Has the attention of the Government been drawn to a paragraph in the *Amrita Basar Patrika* of the 14th January, 1904, in which it is stated that an alternative scheme of re-distribution of territory is under the consideration of the Government according to which, not only the Districts of Dacca and Mymensingh and the Chittagong Division are to be transferred to the Assam Administration, but also the Districts of Barisal, Faridpur, Jessore and Khoolna and the Rajshahi Division, excluding Darjiling, Jalpaiguri and Cooch Behar ?

[22ND JANUARY, 1904.] *Dr. Asutosh Mukhopadhyaya; Sir Denzil Ibbetson.*]

If no such scheme is before the Government, will the Government be pleased to contradict the statement referred to? If any alternative scheme is under the consideration of the Government, will the Government be pleased to publish the details of such scheme and the reasons therefor?

"VIII. Will the Government be pleased to state whether it is intended that the portion of the Chota Nagpur Division which is proposed to be transferred to the Central Provinces Administration should, by such transfer, be placed out of the jurisdiction of the Calcutta High Court? If so, will the Government be pleased to state the reasons?"

The Hon'ble SIR DENZIL IBBETSON replied as follows:—

"The attention of the Government of India was directed, in 1892, to territorial re-adjustments on the Eastern frontier of Bengal, in connection with the administration of the Lushai Hills. The first proposal was to transfer the Chittagong district to Assam as soon as the revision of settlement then in progress was finished, and the Assam-Bengal railway was nearing completion. The transfer of the whole Chittagong division was also considered; and during the discussion which ensued, it was proposed to transfer the districts of Dacca and Mymensingh as well. Various authorities were consulted; and in 1897 the proposal was laid aside for the time being. The Government of India do not propose to publish the opinions then recorded, which were written for their information only, and not with a view to publication.

"If the Hon'ble Member will refer to the papers which have been published on the subject, he will see that the Governments of the provinces concerned have already been consulted. Their replies have not yet been received. The Government of India do not propose for the present to consult the High Court.

"Any consideration of financial details, such as are referred to in Question VI, would be premature at the present stage. When a final decision has been arrived at, any adjustment that may be found necessary will be made in connection with the provincial settlements.

"The attention of the Government of India has only now been drawn to the article referred to in Question VII; but the proposal therein described has not been before them.

"The question whether the jurisdiction of the High Court should be continued in any portion of Chota Nagpur which it may eventually be decided to transfer to the Central Provinces has not yet been considered."

[*Sir Denzil Ibbetson.*] [22ND JANUARY, 1904.]

POISONS BILL.

The Hon'ble SIR DENZIL IBBETSON moved that the Report of the Select Committee on the Bill to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill as amended be passed. He said:—"My Lord, I think that, with the assistance of the opinions which we have received, we have been able to make material improvements in the Poisons Bill as introduced; though they are confined to points of detail, and in no way affect the principles of the Bill.

"There are, however, three matters upon which I would desire to say a few words before I ask the Council to pass the measure into law. It has been pointed out in many of the opinions that the exemption of "medical practitioners" and "chemists and druggists" which is contained in clause 10 is, in the absence of a definition, dangerously wide. We admit the truth of the criticism; but none of our critics have been good enough to favour us with suggestions for a definition, and we have been unable to frame one which, if it is to be more than a mere repetition of the expression in other words, would not be unjustly narrow. We have therefore left the meaning of the words to be determined by the Courts in view of the actual circumstances of each case. It has, indeed, been suggested by many that the individuals in question should be obliged to register themselves. The suggestion is one which it is quite impossible to accept in the present connection. If, at any future time, it should be thought desirable to consider the advisability of providing for the registration of those who practise the indigenous systems of medicine and surgery, it would be necessary to examine the subject separately, and with the greatest care and deliberation; and it is out of the question to introduce any such measure, as it were by a side-wind, in connection with a Bill for the control of poisons.

"The Council will notice that we have cut out altogether sub-clause 1 (d) of clause 10, which exempted from the provisions of the Bill the manufacturers of certain pharmaceutical and commercial preparations. In framing the sub-clause we were conscious that its enumeration was probably incomplete; and in introducing the Bill I specially drew attention to it, and invited suggestions for its enlargement. Many such suggestions have reached us, and have indeed continued to reach us,

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almost up to the present moment. Only within the last day or two, the Hon'ble Mr. Cable addressed me with regard to a new and growing industry which has lately sprung up in Calcutta, namely the manufacture of paints, colours and disinfectants, into the composition of many of which poisons enter in large quantities. Of course, it is our object and intention to except such industries. But the suggestions which we received convinced us that it was hopeless, upon the information before us, to frame a list which should be even reasonably complete as regards either the European or the indigenous industries. Now an incomplete enumeration which is contained in a Statute is a very dangerous thing, for it excludes everything which it does not include. Moreover, it cannot be altered without an appeal to the Legislature; whereas an enumeration which is contained in a rule or notification can be altered or added to at any moment. Again, it is exceedingly improbable that, as regards the indigenous industries, any one list could be framed which would meet the needs of all parts of the country. We therefore abandoned the attempt to frame a list, and added to sub-clause (2) of clause 10 of the Bill as introduced, which empowers Local Governments to exempt substances from the operation of the law, a new sub-clause (3) which empowers them to similarly exempt persons. The two together give them absolutely complete powers of exemption; and it will be their duty, before they put the provisions of the law into force, to frame lists of exemptions with such completeness as they may find possible. I have especially noticed the point, lest those who were protected by the sub-clause as originally framed should think that by cutting it out we have left them without protection. On the contrary, we have made provision for a protection which will be at once more elastic and more complete.

"Finally, many of our critics have pointed out that so long as we do not attempt to control the possession of poisons otherwise than for sale, and so long as rural areas are excluded from the operation of the general provisions of the Bill, our object cannot be completely attained. I think that, when the provisions of the new law have been brought into active operation, it will be found that we do exercise a very considerable measure of control in those directions in which it is most needed. The two poisons which are, beyond all comparison, most commonly used for homicidal purposes in India, are opium and white arsenic—the former by suicides, and the latter by murderers. Over the sale of opium we already possess practically complete control through our Excise machinery. White arsenic, which is, owing to its physical properties, the favourite agent of the Indian poisoner, is not produced in India; and since the Bill gives us power to regulate its importation into the country, and its sale and possession for sale in all parts of the country, it gives us complete control over its

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COURTS.

[*Sir Denzil Ibbelton; Sir Edward Law; Sir* [22ND JANUARY, 1904.]
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distribution up to and including the final purchaser; and, what is very important, it enables us to obtain full information as to the nature and method of that distribution—information which is at present wholly non-existent, and the possession of which will very greatly facilitate further measures of regulation, should such measures at any future time seem advisable.

"At the same time, we fully recognise that the Bill, in its present shape, makes no provision for complete control over the sale of poisons throughout India. But, as I explained when introducing it, the Government of India have carefully considered the question, and have deliberately decided, for reasons which I then stated, that it is not advisable to go further for the present. The Bill is admittedly experimental. But I believe that it represents a very substantial advance in a direction in which all are agreed that action is desirable."

The motion was put and agreed to.

LOCAL AUTHORITIES LOAN BILL.

The Hon'ble SIR EDWARD LAW moved that the Bill to make further provision regarding the borrowing powers of certain local authorities be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, His Highness the Raja of Sirmur, the Hon'ble Mr. Cable, the Hon'ble Mr. Lely, the Hon'ble Dr. Asutosh Mukhopadhyaya and the mover.

The motion was put and agreed to.

CENTRAL PROVINCES COURTS BILL.

The Hon'ble SIR ARUNDEL ARUNDEL moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Civil Courts in the Central Provinces be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR ARUNDEL ARUNDEL moved that the Bill as amended be passed. He said:—"We have received no comments or criticisms on the Report of the Select Committee on this Bill, and I have, therefore, nothing to add to the observations I made when presenting the Report."

The motion was put and agreed to.

The Council adjourned to Friday, the 5th February, 1904.

J. M. MACPHERSON,

*Secretary to the Government of India,
Legislative Department.*

CALCUTTA;

The 22nd January, 1904.