

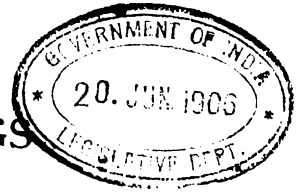
*Tuesday,
18th July, 1905*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLIV

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ABSTRACT OF PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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1906.

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 the Viceregal Lodge, Simla, on Tuesday, the 18th July, 1905.

PRESENT :

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

His Honour Sir Denzil Ibbetson, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

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 Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Sir C. L. Tupper, K.C.I.E., C.S.I.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

INDIAN ARTICLES OF WAR (AMENDMENT) BILL.

The Hon'ble MAJOR-GENERAL SIR EDMOND ELLES moved that the Bill further to amend the Indian Articles of War be taken into consideration. He said:—"The Bill is of a purely formal and non-contentious character, and I do not propose to say anything further regarding it."

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDMOND ELLES moved that the Bill be passed.

The motion was put and agreed to.

[*Mr. Baker.*]

[18TH JULY, 1905.]

INDIAN COINAGE BILL.

The Hon'ble MR. DAKER moved for leave to introduce a Bill to consolidate and amend the law relating to Coinage and the Mint. He said:—
“The present Coinage Act was originally passed in 1870. Some of its provisions, such as that which relates to the coinage of gold mohurs and other gold coins, are obsolete : and some others are not altogether appropriate to the conditions of the present time. It is proposed to make the necessary amendments in respect of these matters in the present Bill.

“In addition to these points, however, which are of minor consequence, there are three matters of importance with which it is proposed to deal in the Bill.

“In the first place, it is desired to take power to coin and issue a nickel coin of the value of one anna. We have already consulted public opinion on this project, and have ascertained that it is entirely favourable. It is therefore unnecessary to dwell at length upon it. If the experiment should prove successful, the question of extending the use of nickel to coins of the denomination of half an anna and two annas respectively will be for consideration hereafter : but this step is not contemplated at present, and no provision is made for it in the Bill.

“Secondly, we desire to take power to substitute bronze coins for the copper subsidiary coinage now in use. Here also, we have already ascertained that public opinion is in favour of the change. We shall take power to continue to coin copper until the Mints have been equipped for the production of bronze coins ; but that will not, I hope, be for more than a comparatively short time.

“The third substantive alteration in the law which it is proposed to make relates to the treatment of light weight silver coins.

“The present law on this subject is contained in sections 16 and 17 of the Act of 1870. These provide that when a genuine coin which has lost more than 2 per cent in weight by reasonable wear is tendered to a Government officer empowered under the Act, he shall cut or break it, and shall pay for it at the rate of one rupee per tola.

“When the Act of 1870 was passed, the Mints were open to the free coinage of silver, and a rupee of full weight was always necessarily worth exactly the same as the silver contained in it. If therefore a person presented a short-weight rupee, the loss he suffered by cutting or breaking was exactly proportionate to the shortage in weight, and it was not inequitable that he should suffer this loss.

18TH JULY, 1905.]

[*Mr. Baker ; the President.*]

" But when the Mints were closed and the rupee became a token coin, the value of the silver contained in it became widely different from, and less than, its face value. If therefore the provisions of the present Act were strictly applied, the result would be to mulct the tenderer of a short-weight rupee not only of the proportion of value due to the shortage, but also of the whole difference between the bullion value and the face value of the coin. This was productive of hardship to innocent holders ; and in order to minimize this, in 1899 Government issued a notification declaring that they would receive rupees which were short weight by not more than $6\frac{1}{4}$ per cent (and had not been tampered with) at their face value, and also that they would receive rupees which were short by more than $6\frac{1}{4}$ per cent but not more than 25 per cent at reduced rates ranging from 14 annas to 12 annas to the rupee.

" Under the Act as it stood, Government had no express authority to do this though its action was perfectly legal, being merely a relaxation in favour of the public of the strict letter of the law. But it is manifestly undesirable to maintain on the Statute Book a provision which is admittedly harsh and inequitable, and which is not enforced in practice. We therefore propose to modify the provisions of the existing law so as to conform to the practice which experience has shown to be appropriate. This is done in clause 17 of the present Bill. We do not in this clause fix the actual percentages corresponding to the $6\frac{1}{4}$ per cent and 25 per cent to which I have referred, but we take power to determine them by rules, subject always to the legal remedy."

The motion was put and agreed to.

The Hon'ble MR. BAKER introduced the Bill.

The Hon'ble MR. BAKER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, 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.

MILITARY ADMINISTRATION OF INDIA.

His Excellency THE PRESIDENT said :—

" The public will desire to be informed of the settlement that has been arrived at of the questions concerning our future military administration that

[*The President.*]

[18TH JULY, 1905.]

have lately been under discussion between the Home Government and the Government of India. Seven months ago this question was referred to us, upon their own initiative, by His Majesty's Government: and the Government of India submitted their views to the home authorities in March last in papers which have since been published. The reply of His Majesty's Government reached Simla a month ago, and has similarly been made public. Upon receipt of this Despatch the Government of India learned to their regret that the advice which they had all but unanimously tendered to His Majesty's Government had not been so fortunate as to meet with the acceptance of the latter. They were instructed to introduce without delay a form of military administration, of which they learned only for the first time in the Despatch of the Secretary of State, and they may be pardoned if they were somewhat surprised at the manner in which it was thought necessary to convey these orders. With the utmost desire to carry out loyally a policy decided upon by His Majesty's Government, I was unable conscientiously to assume the responsibility of introducing an organisation in the practicability of which I could not bring myself to believe, and as to which I found that my Colleagues were in agreement with myself. In these circumstances it became my duty respectfully to represent this position to His Majesty's Government, and to urge upon them such modifications as might remove the principal drawbacks from which the scheme appeared to us to suffer. These modifications have without exception been accepted by His Majesty's Government, and it is desirable that I should now explain them in some little detail to the Indian public, which is vitally concerned in the form and methods of our military administration, and which has followed every phase of the recent discussion with absorbing interest.

"If a reference be made to the Despatch of 23rd March last, and the accompanying Minutes, in which the views of the Government of India were stated, it will be found that the points to which we attached the greatest importance in any system of Indian military administration were, firstly, that the statutory control over the army of the Governor General in Council should remain unimpaired; secondly, that the Government of India should possess independent expert advice, to enable them to decide upon the merits of the military proposals brought before them; and, thirdly, that the head of the Government should not be placed in a position in which the responsibility of this decision should be shifted from the collective shoulders of the Government on to his. I may refer more particularly to paragraph 11 of our Despatch, in which we wrote as follows:—

'The question may be thus stated: is it desirable that the Government of India should possess only a single and supreme Military adviser controlling the entire military organisation, or is it desirable that they should continue, as now, to have a second expert opinion

[*The President.*]

[18TH JULY, 1905.]

upon matters which, in the ordinary course of administration, come before them for decision? We feel no hesitation in answering this question. We cannot too strongly or emphatically express our conviction that the Military Member is an essential element in the Government of India, and our reasons are the following. As long as the Governor General in Council continues to be responsible for the government of the army, he requires expert advice in order to enable him to deal satisfactorily with the proposals that are submitted to him by the Executive head of the army. It is our experience that successive Commanders-in-Chief enter upon their duties with very different ideas and originate very different proposals. In these circumstances it is of extreme importance that the principles, the history, and the tradition of each case should be presented to the members of the Government before they are called upon to decide.

"Those were our recorded views, and it was because the scheme sent out to us by the Secretary of State did not appear to us to satisfy these essential conditions that we felt bound to attempt to secure its amendment. We informed His Majesty's Government that unless modified in important particulars, it would, in our opinion, be unworkable in operation; that it would imperil the control of the Governor General in Council; and that it would impose an undue burden upon the Viceroy while depriving him of indispensable advice.

"The manner in which we sought to remove these evils was as follows :—

"In the first place, it seemed to us that the new Military Supply Member, as sketched in the Despatch of the Secretary of State, might be without the authority and experience, and would certainly be without the opportunities, that would enable him to give to the Government of India the independent assistance of which I have spoken. It appeared to us that he would be little more than a purveyor of military stores and supplies; and that his advisory functions on general military questions would not be called into existence until a case was brought before Council, or, in other words, until it might be too late to be of practical use. The language of the Despatch appeared to us further to be ambiguous in respect of his military qualifications and powers, for we were told that his functions were to be essentially those of a civilian administrator with military knowledge and experience—a definition that seemed on the whole to postulate a soldier, for how could a civilian possess military experience?—and yet that his duties were to be more of a civil than a military nature—a phrase that seemed to be not incompatible with the appointment of a civilian—and further that he was specially to advise the Governor General in Council on questions of general policy as distinct from purely military questions—a distinction which seemed to contravene the previous definition of his duties, and which we thought that it would not be possible in practice to maintain.

[*The President.*]

[18TH JULY, 1905.]

"We accordingly represented to the Secretary of State that the functions which His Majesty's Government proposed to assign to the Military Supply Member could not properly be performed except by a soldier, and that such, in our opinion, he ought always to be, just as the Military Member has hitherto invariably been. We did not ask that any alteration should be made in the existing law that regulates the appointment of Members of Council, but we represented that the nomination of a civilian would be fatal to the safeguards which we desired to create. His Majesty's Government have not of course the power to bind their successors except by the precedent which they are about to create. The first appointment, however, which will be that of a military officer, will set an example which I venture to think that no future Government will be found to depart from. For from the day that a civilian is appointed to the office the administrative system which is now being set up will, in my judgment, even if it has lasted as long, be fated to disappear.

"Secondly, in order to clear up the ambiguities in the position of the Military Supply Member, and to place the full benefit of his military knowledge and experience at the disposal of the Viceroy and his Colleagues, we proposed that, outside the necessary functions of his department, he should be available for official consultation by the head of the Government on all military questions, without distinction, and not only upon questions of general policy or where cases are marked for Council. We proposed that identical conditions should apply to both Military Departments, and that upon the submission of any case from either department, the Viceroy should, if he considers it necessary, refer it to the head of the other Department for advice. We informed the Secretary of State that we did not anticipate that this would become the general practice in either case; but that the power of reference was required in order to relieve the Viceroy of a burdensome responsibility, and that in our view it would, when resorted to, tend to promote co-ordination. His Majesty's Government informed us in reply that these proposals were consistent with the right of the Viceroy to consult any Member of his Council on any subject, and that there would, therefore, be no objection to concede them, without giving to either Member any special right to be consulted or to note upon the proposals of the other. How important this concession is may be seen by a contrast with the terms of the Secretary of State's Despatch, in paragraph 25 of which we had been informed that in future the Commander-in-Chief would be the sole expert adviser of the Government on purely military questions. I am myself of opinion that with two Military Officers of distinction upon the Executive Council, nothing could be more unwise than to separate them, so to speak, into watertight compartments and compel each

18TH JULY, 1905.]

[*The President*]

to work in complete detachment from the other. The more they co-operate and know of each other's policy and views, the better it will be both for the Government of India and for the Indian Army.

"It was with the same object in view, namely, to secure complete fore-knowledge of all important military questions by both our military advisers and to ensure harmonious co-operation between the two Departments and their heads, that we made a further proposal. The Secretary of State had suggested in his Despatch the revival of the Mobilisation Committee with the Military Supply Member sitting upon it. We proposed to lay down that all important changes in military organisation or conditions of service of all ranks, or in customs affecting the Native Army or its departments, which might originate from either Military Department, must of necessity be submitted for discussion to this Committee or to an analogous Committee with such other more suitable designation as might be decided upon, and that the Commander-in-Chief and Military Supply Member should be essential Members of this Committee. This will mean that no important changes affecting the Native Army, or indeed any portion of the Army, can be put forward without running the gauntlet of a highly competent expert body upon which the principal Military Officers at the Head-Quarters of Government will sit, and at whose meetings both the Military Advisers of the Government of India must be present. This rule will provide for the exhaustive discussion from every point of view of all military proposals, and should relieve the Governor General in Council of a good deal of preliminary work which might otherwise fall either upon the Viceroy or upon his Colleagues.

"Our next proposals were directed to securing that the Government of India should be effectively and powerfully represented in the new Army Department, and that means should be provided by which the head of the Government should be kept in the closest touch with its policy and proceedings. The Secretary of State's Despatch had been silent as to the rank of the new Secretary to Government in this Department. It will be this officer who will be the ordinary channel of communication between the Department and the Viceroy, who will possess the access to the latter enjoyed by all Secretaries to Government, and who will be the custodian inside the Department of the traditions and principles of the Government of India. We thought that it would be invidious if this officer, as the official representative of Government, were of lower rank than his Colleagues at the head of other branches in the Department, and we accordingly proposed that he should be either a Major General or, if a Colonel, that he should have the local rank of Major General. This proposal was agreed to.

[The President.]

[18TH JULY, 1905.]

" Finally, we proposed to draw up a definite schedule of all cases in the Army Department which it should be the duty of the Secretary to Government in the Department to submit to the Viceroy before orders could be passed upon them. This was intended as an additional safeguard to the full and complete knowledge and control by the Governor General. The idea met with the approval of His Majesty's Government.

" The whole of the above proposals, which were put forward with the concurrence of the Commander-in-Chief, were submitted by us to the Secretary of State as the minimum which in our judgment was necessary in order to render the new organisation practicable. The Secretary of State informed us in his final reply that they did not contravene the provisions of his despatch, and that some of them were in exact fulfilment of the wishes and intentions there conveyed. We were very glad to make this discovery; since while securing points to which we attached the utmost importance, we learned that we were at the same time acting in accordance with the desires of His Majesty's Government.

" Whether the system thus modified will be in any way superior to that with which we have hitherto been familiar, or whether it will possess any permanent vitality, the future alone will show. We have seen so many schemes of military organisation rise and fall in recent years, that prophecy is dangerous. The new scheme is not of our creation. All that we have been in a position to do is to effect the removal of some of its most apparent anomalies and to place its various parts in more scientific relation to each other. We have converted the position of the Military Supply Member into one of greater efficacy and utility. We have very considerably strengthened the guarantees for civil supervision and control. In the last resort I expect that the new system, like the old, will depend in the main upon the personal equation for its success or failure.

" It is only necessary for me to add, upon the wider aspect of the case, that the sole object which my Colleagues and myself have had in view since the commencement of the present discussion has been the maintenance of the constitutional authority of the Government of India. Individual views or susceptibilities are of minor importance. We hold that it would be incompatible with the proper conduct of Indian Government if the full degree of intelligent and informed control over military matters conceded to the Governor General in Council by the law were to be weakened. No one who has been responsible for the Government as long as I have can be blind to the importance of this consideration; and that Governor-General would, in my judgment, be untrue to his

18TH JULY, 1905.]

[*The President.*]

office who did not regard it as his bounden duty to sustain the prerogative which was conceded to the Government of India as far back as three-quarters of a century ago."

The Council adjourned to Friday, the 11th August, 1905.

SIMLA;
The 20th July, 1905. }

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.