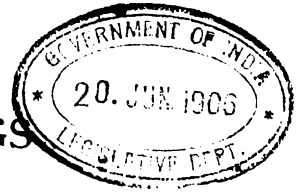


*Friday,  
19th January, 1906*

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

**Vol. XLIV**

**Jan.-Dec., 1906**



# ABSTRACT OF PROCEEDINGS

OF

## THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

### LAWS AND REGULATIONS,

### FROM 1905 TO MARCH 1906.

### VOLUME XLIV



Published by Authority of the Governor General.

Gazette & Debates Section  
Parliament Library Building  
Room No. PB-025  
Block 'G'



CALCUTTA :

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

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 Act, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

---

The Council met at Government House, Calcutta, on Friday, the 19th January, 1906\*.

PRESENT :

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

His Honour Sir A. H. L. Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

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

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

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

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. J. P. Hewett, C.S.I., C.I.E.

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

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Mr. L. A. S. Porter, LL.D.

The Hon'ble Mr. L. Hare, C.S.I., C.I.E.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Nawab Fateh Ali Khan, Kazilbash, C.I.E.

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

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Mr. W. T. Hall, C.S.I., LL.B.

The Hon'ble Mr. A. C. Logan.

The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, C.S.I.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GOKHALE asked :—

“(a) Will Government state for what reasons the practice of appointing an Indian gentleman from the Central Provinces to this Council, which had

---

\* NOTE.—The Meeting of Council which was fixed for the 12th January, 1906, was subsequently postponed to the 19th January, 1906.

[*Mr. Gokhale; Mr. Richards; Sir Denzil Ibbetson.*] [19TH JANUARY, 1906.]

prevailed since the Indian Councils Act of 1892 was passed, has been departed from this year?

“(b) In view of the fact that the Central Provinces have no Legislative Council of their own, will Government be pleased to restore to the people of those Provinces, at the earliest opportunity, the advantage of being represented in this Council by an Indian member, as hitherto?”

The Hon'ble MR. RICHARDS replied :—

“(a) Subject to certain provisions which are not material to the present question, the power of appointing any gentleman to be Member of this Council rests entirely with the Governor General. There is no ground for the claim implied by the Hon'ble Member that by right of custom the Central Provinces are entitled to representation by an Indian non-official.

“(b) The views expressed by the Hon'ble Member as to the requirements of the Central Provinces will receive the consideration of the Governor General.”

#### SINDH INCUMBERED ESTATES (AMENDMENT) BILL.

The Hon'ble SIR DENZIL IBBETSON presented the Report of the Select Committee on the Bill to amend the Sindh Incumbered Estates Act, 1896. He said :—“My Lord, I desire, at the special request of my colleague on the Committee, the Hon'ble Mr. Gokhale, to explain briefly why we have decided to retain clause 2 (b) of the Bill, notwithstanding the exception which has been taken to it by the Sindh Hindu Sabha. It had not occurred to me that the matter called for special mention. But I am glad to be able to comply with my Hon'ble Colleague's wishes, at no greater cost than that of occupying the attention of Council for a few moments.

“The original Sindh Incumbered Estates Act, like other Acts of the same class, was intended to apply only to estates which were of some importance; and, among other limitations, it contained a provision that no ordinary land-holder who had not been assessed to as much as Rs. 300 of land-revenue within a certain period of five years, was entitled to the benefits of the Act. The operation of the Act was limited to a few months, and the five-year period was counted back from the date of its passing.

“When this Act was superseded by the corresponding Act of 1896 which we are now proposing to amend, this provision was retained, and the five-year period was again made to count back from the date of the passing of the new Act.

[19TH JANUARY, 1906.] [Sir Denzil Ibbetson.]

"But the fact was apparently overlooked, that a period which was perfectly suitable in the case of an Act the operation of which was temporary only, was not suited to the case of an Act which (like that of 1895) was of a permanent character. And this for two reasons. In the first place, as time goes on, it becomes increasingly inconvenient and increasingly difficult to ascertain, by reference to the old records, what revenue a certain estate as now constituted paid between 1891 and 1896. And in the second place, the test, in its present shape, tends more and more to grow away from the existing facts to which it is intended to apply it; and this is especially the case in a territory like Sindh, where, owing to local conditions and the fluctuating nature of the assessment, the revenue demand upon any given area varies much more widely than in other provinces. The Bill before us proposes therefore to make the five-year period count back, not from the passing of the Act, but from the making an application to be admitted to its benefits.

"The Hindu Sabha dislike the Act; they regret that it should have been given permanent operation; and they have persuaded themselves, by a process of reasoning which I confess myself unable to follow, that the proposed change will operate to 'perpetuate it by making its operation limitless', and to prevent it from 'expiring by efflux of time.'

"This conclusion seems to me a mistaken one. We may safely assume that there will always be in Sindh zamindars who pay, or paid, more than Rs. 300 of revenue, whichever of the two periods we adopt as the test, not to mention jagirdars, to whom also the Act applies; so that the Act will be permanently operative, whether the proposed change be made or not.

"The Sabha further urge that the change will render the Act applicable to a new and indefinite class of landowners. But if it is true that the change will admit to the benefits of the Act certain persons who would have been excluded under the old test, it is no less true that the converse case will also occur. And it must be remembered that the provision in question is negative, not positive, in its operation. It provides that no one who does not pay so much as Rs. 300 of revenue shall be entitled to the benefits of the Act; but it does not provide that every one who does pay so much shall be so entitled. The Commissioner in Sindh has full discretion to reject any application under the Act; and we may be sure that he will not gratuitously add to the burden of work with which his officers are already laden, by imposing upon them the management of estates, the preservation of which in the hands of the family which owns them will serve no public purpose.

[*Sir Denzil Ibbetson; Mr. Baker.*] [19TH JANUARY, 1906.]

"In any case, it seems obvious that the question whether or no a given estate is so insignificant that it should be excluded by law from the operation of the Act, is one which ought to be answered with reference, not to the conditions which existed in the early nineties, but to those which exist at the moment when it is proposed to apply the Act; and that the proposed change is desirable on grounds both of convenience and of practical utility."

#### INDIAN COINAGE BILL.

The Hon'ble MR. BAKER moved that the Bill to consolidate and amend the law relating to Coinage and the Mint be referred to a Select Committee consisting of the Hon'ble Mr. Richards, the Hon'ble Rai Sri Ram Bahadur, the Hon'ble Mr. Sim, the Hon'ble Mr. Apar and the mover.

The motion was put and agreed to.

#### INDIAN STAMP (AMENDMENT) BILL.

The Hon'ble MR. BAKER moved for leave to introduce a Bill further to amend the Indian Stamp Act, 1899. He said:—"My Lord, the changes which it is the object of the Bill to introduce in the law are three in number, and are all of comparatively small individual importance. The first of them provides for a revision of the rates of stamp-duty payable on fire insurance policies. It has been represented to the Government of India by the principal Chambers of Commerce and by various Fire Insurance Associations that the rates of duty prescribed by Article No. 47 (B) of Schedule I of the Act are unequal and in certain cases unduly high, and it was suggested by these bodies that they should be reduced to a uniform all-round rate of one anna per policy issued or re-issued. The Government of India have considered this proposal in consultation with Local Governments and Administrations, and although they are not prepared to grant so large a reduction as was asked for, they are of opinion that the present rates are unnecessarily high. It is accordingly proposed in the Bill to sweep away the present schedule of rates which vary according to the amount and period of the policy. In their place we substitute, firstly, a fixed duty of four annas in respect of every original policy when the sum insured is less than Rs. 5,000, and of eight annas in every other case; secondly, we impose a duty of equal amount on the payment of every premium. The effect of this arrangement is to tax all original policies of less than Rs. 5,000 to the extent of eight annas, and those of higher amount to the extent of one rupee, while every renewal or re-issue of a policy will carry a duty of one-half of these rates. The Government of India are of

[19TH JANUARY, 1906.]

[*Mr. Baker.*]

opinion that under the arrangement proposed it is desirable to impose the liability to stamp the policies and receipts upon the Companies which issue them. This condition has not been objected to by the various Fire Insurance Associations who have been consulted by the Local Governments.

"Secondly, the Bill provides for the legalisation of an existing but illegal practice of dividing the stamp-duty payable on marine insurance policies between copies drawn in duplicate. Prior to the passing of Act VI of 1894 the duty on these policies was four annas for each Rs. 1,000 insured, the duty being equally divided between each part when the policies were drawn in duplicate. As a result of representations made to Government by Marine Insurance Associations in Calcutta and Bombay, the Indian rates were in 1894 reduced to bring them into line with the rates chargeable in the United Kingdom on similar policies. The provisions of Act VI of that year, which followed, as far as possible, those of the English Stamp Act of 1891, made no mention of the duties leviable on the separate parts of policies executed in duplicate. At that time the effect of Article 23 of Schedule I of Act I of 1879 (which corresponds to Article 25 in the present Act), which prescribed a duty on the counterpart or duplicates of instruments, appears to have been overlooked. While, therefore, the intention was that the duties then imposed should represent the total duty on each policy whether executed singly or in duplicate, a small additional duty was actually leviable under the law on the duplicates of such policies. The practice, however, of dividing between two forms the stamp-duty payable on one policy of marine insurance appears to have continued till it was recently objected to by the Superintendent of Stamps, Bombay. The Government of India have considered representations on the subject addressed to them by the Chambers of Commerce in Bombay, Karachi and Madras, and it is now proposed to legalise the existing practice and to allow the total stamp-duty prescribed by Act VI of 1894 to be divided between copies of marine insurance executed in duplicate as was provided by Act I of 1879.

"The third object of the Bill is to introduce certain other unimportant amendments to which effect has already been given by executive order. These relate (1) to the admission of private banking firms to the benefit allowed by section 51 of the Act in regard to the refund of the value of unused stamped papers, (2) to a general exemption from duty of copies of, or extracts from, certificates relating to births, baptisms, marriages and deaths, and (3) to the reduction of the duty on mortgages of crops when the loan is repayable in more than twelve but not more than eighteen months."

The motion was put and agreed to.

[*Mr. Baker; Mr. Hewett.*] [19TH JANUARY, 1906.]

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.

#### INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HEWETT moved for leave to introduce a Bill further to amend the law relating to merchant seamen. He said :—" My Lord, section 23 of the Indian Merchant Shipping Act of 1859 prescribes that in the case of a foreign-going ship making voyages averaging less than six months in duration, running agreements with the crews may be made to extend over two or more voyages, provided that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her port of destination in India after such date.

" The present law, which, I may say, was not strictly enforced in Bombay till a comparatively recent time, occasions much inconvenience to the steamer companies, particularly at that port. The Government of Bombay and the Bombay Chamber of Commerce are agreed that its enforcement leads to considerable disorganization of labour at the end of each half-year, and that ship-owners experience great difficulty in obtaining efficient crews at or about these dates. The inconvenience is particularly felt in the case of mail vessels which have under contract to leave on fixed dates.

" It is proposed to amend the present law so as to provide that agreements of this nature shall terminate six months after they are entered into. A somewhat similar proposal received the assent of the Secretary of State in 1891, but, for the reason explained in the Statement of Objects and Reasons, it has not hitherto been brought into force. In that year, however, the Government of India made an amendment of section 32 of the Merchant Shipping Act of 1859 in respect of crews for home trade ships, that is, ships plying between ports in India. The Bill has been drafted so as to apply to the crews of foreign-going ships registered in British India under the Merchant Shipping Act of 1894, or registered in the United Kingdom under the same Act but not employed in trading with any port in the United Kingdom, the regulations which already apply to crews on home trade ships plying to ports in India."

The motion was put and agreed to.



[19TH JANUARY, 1906.]

[*Mr. Hewett.*]

The Hon'ble MR. HEWETT introduced the Bill.

The Hon'ble MR. HEWETT moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette.

The motion was put and agreed to.

The Council adjourned to Friday, the 26th January, 1906.

CALCUTTA ;  
The 19th January, 1906. }

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