

JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1932

The Tea Districts Emigrant Labour Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1932.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Partnership Bill.	26.1.32.	
2.	The Wire and Wire Nail Industry (Protection) Bill.	15.2.32.	
3.	The Bamboo Paper Industry (Protection) Bill.	16.2.32.	
4.	The Bengal Criminal Law Amendment (Supplementary) Bill.	22.2.32.	
5.	The Sugar Industry (Protection) Bill.	23.2.32.	
6.	The Foreign Relations Bill.	29.2.32.	
7.	The Indian Air Force Bill.	10.3.32.	
8.	The Ancient Monuments Presentation (Amendment) Bill.	5.4.32.	
9.	The Port Haj Committees Bill.	5.9.32.	
10.	The Tea Districts Emigrant Labour Bill.	5.9.32.	
11.	The Code of Criminal Procedure (Amendment) Bill.	12.9.32.	
12.	The Children Pledging of Labour Bill.	19.9.32.	
13.	The Criminal Law Amendment Bill.	7.11.32.	
14.	The Indian Merchant Shipping (Amendment) Bill.	14.11.32.	
15.	The Indian Tariff (Ottawa Trade Agreement) Amendment Bill.	12.12.32.	

WE, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to emigrant labourers in the tea districts of Assam was referred, have considered

the Bill and the papers
Papers Nos. I—VI. noted in the margin,
and have now the honour to submit this our
Report, with the Bill as amended by us annexed
thereto.

2. *Clause 1, sub-clause (2).*—We consider that it is preferable at once to include the Sonthal Parganas which is a recruiting area of some importance.

With reference to sub-clause (3), we are anxious that the Act should be put into operation as soon as possible. We are satisfied with the assurance given by the Honourable Member for Industries and Labour that Government will expedite as far as possible the bringing into force of the Act.

Clause 2 (a).—We have inserted the Balipara Frontier Tract among the tea districts, as we understand there is at least one tea garden in that tract.

(b) We have somewhat extended the scope of this definition. The words omitted seemed to us likely to give rise to difficulty in interpretation.

(d) We have revised this definition to avoid the danger of the whole period of the sixteenth year of a person being excluded in the case of both an adult and a child.

(e) We have recast this definition in the interest of clarity.

(f) and (ff). A separate definition has been provided for "assistance" which is used in the Bill as revised both with reference to emigrants as defined here under the title "assisted emigrants" and to other persons such as those referred to in clauses 34 and 35 who do not come within the definition now provided for "assisted emigrant". The definition of "assisted emigrant" has been widened to cover even persons who have already worked on tea estates in Assam, provided that they have been absent from Assam for more than two years.

(g) The omission in this definition is intended to ensure that a person who takes up other employment on a tea garden such as that of a domestic servant or mechanic does not thereby lose his status as an emigrant labourer. The other alterations in the definition are consequential upon the changes made in (d) and (f).

(i) The omission of the word "emigrant" is intended to avoid the difficulty arising from the fact that "emigrant labourer" is a technical term with special meaning in this Act, so that until persons had emigrated under the Act to tea gardens there might be no "employing interests".

Clause 3 (2).—We consider it advisable to make provision for the possibility that more than one Deputy Controller may be required. In this connection we desire to express the view that if more than one officer is appointed in pursuance of this section at least one of them should be an Indian.

Clause 4.—We have omitted words in sub-clause (a) which appear to us unnecessary. The

other changes are aimed at meeting a criticism made of the draft Bill by the High Court of Lahore and the Punjab Government.

Clause 5.—We have altered the provisions regarding the cess to make the cess payable in respect of each assisted emigrant as now defined. The number of such assisted emigrants will be larger than the number of emigrant labourers under the Bill as drafted, and we are advised that the maximum rate now provided should be adequate. In order to facilitate administration we have provided that the cess should be levied in respect of the entry of the emigrant.

Clause 8.—We think that only serious misconduct should involve the consequences provided by this clause.

Clause 9.—The amendment is designed to secure that on the death of a married woman leaving a husband and children on the garden, the family will be able to secure repatriation.

Clause 10 (1) (b).—The amendment is aimed at preventing a labourer from being compelled to work on less than the ordinary wage.

New sub-clause (d).—We consider that it is not possible to provide specifically for all the grounds which might warrant repatriation and that cases of serious hardship may arise which do not satisfy the criteria given in the original Bill. We have therefore provided that the Controller should have power to order repatriation for a cause not specifically provided for in sub-clauses (a), (b) and (c), if in his opinion it is a sufficient cause. As a safeguard in the exercise of this very wide power we have provided that it shall only be exercised by the Controller himself and not by another officer exercising the powers of a Controller by or under the Act.

Clause 12.—We have revised the clause to ensure to the emigrant labourer the cost of his return journey to his home instead of to the station nearest to the place where he was recruited.

Clause 14.—We consider it desirable to restrict the power of contracting out of the right of repatriation to avoid the possibility of an emigrant labourer so contracting at the time of his first arrival in Assam or long before the right arises. We have also expanded the proviso in the interests of the labourer who should, we consider, be in a position to understand exactly what he is foregoing when waiving his right of repatriation. The amendment in sub-clause (2) is self-explanatory.

Clause 15 (2).—We consider that in the interests of the Emigrant Labour Fund and of employers in general there should be an obligation on the Controller to recover cost incurred under this section from the employer who is at fault.

Clause 17.—In the Bill as drafted, a local forwarding agent's licence could be cancelled without the employing interest's consent only on account of his own misconduct. We consider that Local Governments should be able to prevent any agent from acting on behalf of an employer guilty of misconduct, and the amendments made here and in clause 24 have this object.

Clause 18.—We have revised this clause so that it now covers not only assisted emigrants

but also persons who, because they have been in Assam within the two preceding years, do not come within the class of assisted emigrants. For purposes of check and in the interest of these persons themselves, it is desirable that they should be produced at the depots of forwarding agents when on their way to Assam. It is not contemplated that they should be subject to the provisions of the Act relating to assisted emigrants in other respects.

Clause 21 (b).—Our amendment indicates that the returns to be kept shall relate only to the special class of assisted emigrants dealt with by the Bill.

(e) We have confined the scope of this sub-clause to women who are unaccompanied by their husbands and are proceeding as assisted emigrants.

New sub-clause (ee) has been provided as an insurance against assisted emigrants being left in ignorance of the conditions of life and work to which they are going.

Clause 22.—We consider that the Civil Surgeon should also have powers under this clause, and we think it desirable that the results of all inspections made should be recorded.

Clause 24.—See note on clause 17.

Clause 26.—Having regard to the recommendation of the Royal Commission on Labour we consider that this Chapter should not come into force without the previous sanction of the Governor General in Council.

Clause 27.—We have omitted this clause which will now be adequately covered by clause 32 as amended by us.

Clause 28.—We consider that the rules to be made under clause (a) of sub-section (2) should be made by the Governor General in Council rather than by the Local Government, as it is preferable that there should be some uniformity in the matter.

Clauses 29, 30 and 31.—We consider that the reasons for refusing to endorse a certificate as valid or for cancelling or suspending a licence under these clauses should be recorded in writing.

Clause 32.—See note on clause 27. The clause as now amended applies only to assisted emigrants and not to all potential labourers.

Clause 33.—We have made a provision preventing a married woman from being recruited without the consent of her husband.

Clauses 34, 35 and 36.—We have amended these clauses so as to extend them to the wider

SIMLA ;

The 3rd September, 1932.

*Subject to Note of Dissent.

class to whom reference has been made in our remarks upon clause 18. We have also made it clear that an emigrant cannot be returned without his consent. The amendment at the end of sub-clause (2) of clause 36 is designed to meet the case where the employing interest does not maintain a depot in the neighbourhood. The amendments in sub-clause (4) have the same objects as the amendments in sub-clause (2) of clause 15.

Clause 37 (1).—A reference has been inserted to clause 10 in view of the proviso added therein to sub-clause (3). In sub-clause (4) we have further defined the officers who may be invested with powers under this sub-clause.

Clause 38.—We have inserted an additional provision to enable rules to be made preventing a conflict of jurisdiction.

Sub-clause (1) (h).—The addition here made is designed to secure information bearing on the status of assisted emigrants.

New clause 39A.—We have introduced the usual protection for action taken in good faith.

3. We desire to record our emphatic view that the objects underlying this Bill cannot be fully achieved unless effect is given to other proposals and recommendations of the Royal Commission on Labour relating to the welfare of labour in Assam, and that steps should be taken to give effect to them as early as possible.

4. The Bill was published in the Gazette of India, dated the 12th March, 1932.

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.

COWASJEE JEHANGIR (Junior).

FRANK NOYCE.

MOHD. YAMIN KHAN.

S. G. JOG.

*K. P. THAMPAN.

*T. R. PHOOKUN.

ABDUL MATIN CHAUDHURY.

*N. M. JOSHI.

†H. B. FOX.

†G. MORGAN.

GAYA PRASAD SINGH.

†B. N. MISRA.

A. G. CLOW.

K. AHMED.

TIN TUT.

K. UPPI.

†Subject to Note.

NOTE OF DISSENT.

With reference to clause 33 we are of opinion that women should be left free to go and take up work in the tea gardens of Assam without being compelled to take the consent of their husbands.

T. R. PHOOKUN.

N. M. JOSHI.

K. P. THAMPAN.

NOTE.

The undersigned wish it to be understood that with regard to paragraph 3 of the Report they do not necessarily endorse every other proposal

and recommendation of the Royal Commission on Labour.

G. MORGAN.

H. B. FOX.

NOTE.

Provisions must be made to give some educational facilities to the children of labourers in each tea estate and for giving in some cases right of entry to the public to investigate the health and housing conditions of labourers.

B. N. MISRA.

[AS AMENDED BY THE SELECT COMMITTEE.]

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

THE TEA DISTRICTS EMIGRANT LABOUR BILL.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Appointments and status of Controller and Deputy Controller.
4. Powers of the Controller.
5. Emigrant Labour Cess.
6. Power to make rules for the collection of the Emigrant Labour Cess.

CHAPTER II.

REPATRIATION.

7. General right of repatriation after three years in Assam.
8. Right to repatriation on dismissal.
9. Rights of repatriation of family of deceased emigrant labourer.
10. Right to apply for repatriation in certain circumstances.
11. Power of criminal Courts to order repatriation.
12. Incidents of the right of repatriation.
13. The discharge of an employer's duty to repatriate.
14. Postponement, waiver and forfeiture of the right.
15. Power of the Controller to enforce the provisions of this Chapter.

CHAPTER III.

CONTROLLED EMIGRATION AREAS.

16. Power to declare controlled emigration areas.
17. Power to grant licences to local forwarding agents.

SECTIONS.

18. Recruits in controlled emigration areas to be sent to forwarding agents' depots.
19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.
20. Maintenance of depots along prescribed routes.
21. Power of Local Government to make rules.
22. Inspection of depots, vessels and vehicles.
23. Action where proper arrangement not made for assisted emigrants.
24. Cancellation of licences.
25. Penalty for illicit abetment of emigration.

(ii)

CHAPTER IV.

RESTRICTED RECRUITING AREAS.

- 26. Power to declare restricted recruiting areas.
- 27. * * * *
- 28. Grant of licences to recruiters.
- 29. Grant of certificates to garden-sardars.
- 30. Cancellation and suspension of recruiter's licence.
- 31. Cancellation of garden-sardar's certificate.
- 32. Penalty for illicit recruitment.

CHAPTER V.

SUPPLEMENTAL.

- 33. Prohibition of the recruitment of children.
- 34. Power to detain and return sick persons.
- 35. Power to return person improperly recruited.
- 36. Power to enforce the provisions of sections 34 and 35.
- 37. Magistrates and medical officers who may exercise the powers of the Controller.
- 38. Power of Governor General in Council to make rules.
- 39. Powers to extend the scope of this Act.
- 39A. *Saving for acts done in good faith under the Act.*
- 40. Repeal of Act VI of 1901 and certain consequences.

THE SCHEDULE.

A
BILL

TO

*Amend the law relating to emigrant labourers
in the tea districts of Assam.*

WHEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Tea Districts Short title, extent and Emigrant Labour Act, commencement. 1932.

(2) It extends to the whole of British India, including the Sonthal Parganas.

(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) “tea district” means any of the following districts in the province of Assam, namely,—

Lakhimpur, Sibsagar, Newgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract ;

(b) “tea estate” means an estate, * * * situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith.

(c) “recruiting province” means any province other than Assam ;

(d) “adult” means a person who has completed his sixteenth year, and “child” means a person who is not an adult ;

(e) a “labourer” means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan ;

(f) an “assisted emigrant” means an adult who, after the commencement of this Act, has left his home in any recruiting province or in any Indian State, is proceeding through any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person * * * ,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate ;

(ff) “assistance” means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam

to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

- (g) an "emigrant labourer" means a person who has *last* entered Assam as an assisted emigrant and is employed * * * on a tea estate,

and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has *become an adult* and is so employed,

but does not include—

any person who, at any time after his *last* entry into Assam and after he has *become an adult* has taken employment not on a tea estate, *

* * * *

- (h) the "family" of any person includes the following, if living with him, namely,—

(i) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(ii) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(iii) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has *become an adult* and is living with him;

- (i) "employing interest" means any employer of * labourers, or any group or association of such employers; and

- (j) "prescribed" means prescribed by rules made by the Governor General in Council.

3. (1) The Governor General in Council may appoint a person to be Appointment and status of Controller and Deputy Controller. Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(2) The Governor General in Council may also appoint *one or more Deputy Controllers* of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the Governor General in Council may determine.

(3) The Controller may, from time to time and subject to the control of the Governor General in Council, make a distribution of work as between himself and the Deputy Controllers.

(4) The Controller and Deputy Controllers shall XLV of 1860. be deemed to be public servants within the meaning of the Indian Penal Code.

4. The Controller shall have power—

Powers of the Controller.

- (a) to enter, * * * —
- (i) all open places on a tea estate,
 - (ii) any enclosed place on a tea estate where *he knows or has reason to believe* emigrant labourers are working or are accommodated,
 - (iii) any office of a tea estate,
 - (iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting province,
 - (v) any train, vessel or vehicle which *he knows or has reason to believe* is being used for the conveyance of assisted emigrants;
- (b) to inspect, in any office or depot mentioned in sub-clauses (iii) and (iv) of clause (a), any register or other document required to be kept under this Act;
- (c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and
- (d) to do any other reasonable act which may be expedient in the discharge of his duties.

5. (1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

(2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(3) It shall be levied * * * at such rate, not exceeding nine rupees, for each such emigrant as the Governor General in Council may, by notification in the Gazette of India, determine for the year of levy.

(4) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the Governor General in Council.

6. (1) The Governor General in Council may, by notification in the Gazette of India, make rules—
Power to make rules for the collection of the Emigrant Labour Cess.

- (a) prescribing the agency which shall collect the Emigrant Labour Cess;
- (b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;
- (c) regulating the procedure of the collecting agency;
- (d) prescribing the mode of payment of the cess;
- (e) determining the date when any sum payable as cess shall be an arrear;

- (f) declaring that an arrear of cess may be recovered as an arrear of land-revenue and prescribing the procedure to be followed to secure such recovery; and
- (g) generally, to secure the equitable collection of the cess.

CHAPTER II.

REPATRIATION.

7. Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

General right of repatriation after three years in Assam.

8. (1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

Right to repatriation on dismissal.

(2) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

9. (1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

Rights of repatriation of family of deceased emigrant labourer.

(2) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

10. (1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

Right to apply for repatriation in certain circumstances.

- (a) that his state of health makes it imperative that he should leave Assam, or
- (b) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work, or
- (c) that his employer has unjustly withheld any portion of any wages due to him, or
- (d) any other sufficient cause.

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer :

Provided that a declaration in pursuance of clause (d) of sub-section (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

11. Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code with imprisonment for one year **XLV of 1900.** or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

12. (1) When an emigrant labourer * has a right of repatriation against any employer, *the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home :*

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her :

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding *the cost of the return journey* or subsistence allowances * * * the question shall be referred to the Controller, whose decision shall be final.

13. (1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the

H2J0LAD

employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey :

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (1), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default :

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

14. (1) An emigrant labourer may, by agreement with his employer-

Postponement, waiver and forfeiture of the right. postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises :

Provided that the Governor General in Council may, by notification in the Gazette of India, make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement :

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

15. (1) Where the Controller, on information obtained from any source

Power of the Controller to enforce the provisions of this Chapter. and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family

or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and *shall recover the costs incurred from the employer.*

(2A) *For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.*

(3) The Controller shall have similar powers in regard to any person in Assam who *he knows or has reason to believe* is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

CHAPTER III.

CONTROLLED EMIGRATION AREAS.

16. (1) Subject to the control of the Governor General in Council, the Local Government of a recruiting province may, by notification in the local official Gazette, declare any area within such province to be a controlled emigration area, and thereupon the provisions of this Chapter shall apply to that area :

Provided that, subject to the like control, the Local Government may, by the same or by subsequent notification, declare that any of the provisions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect, and shall not be valid until that date.

17. (1) The Local Government, or any District Magistrate empowered by it in this behalf, *Power to grant licences to local forwarding agents.* may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an *employer or employers of labourers.*

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

18. (1) *Whoever* arranges with any person in a Recruited in controlled controlled emigration area emigration areas to be that such person shall sent to forwarding agents' proceed to Assam with depots. *assistance*, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent *licensed for the area in which* the arrangement was made, unless the arrangement was made at such a depot.

(2) *Whoever* arranges with any person in an Indian State that such person shall proceed to Assam *with assistance* and brings or sends such person and any of the members of his family into * * * any controlled emigration area, * shall take or send such person and members to the depot of a local forwarding agent *licensed for that area*.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

19. An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent * and only by such routes and in such manner as may be prescribed by rules made under section 38, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

20. Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

21. (1) The Local Government may, by notification in the local official Gazette, make rules—

- (a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences ;
- (b) prescribing returns relating to *assisted* emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents ;
- (c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots ;
- (d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots ;
- (e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women *unaccompanied by their husbands* who propose to proceed to Assam *as assisted emigrants* * * *, and for investigation into their circumstances ;

(ee) *prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied ;*

(f) providing for any other matter which in the opinion of the Local Government may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (e), clause (ee) or clause (f) of sub-section (1), the Local Government may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

22. (1) *The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.*

(2) *The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling, whether along a prescribed route or not.*

23. If the Governor General in Council is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, he may require the Local Government to direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest :

Provided that the Governor General in Council shall not make any requisition for the cancellation of licences under this section until he has given the employing interest concerned an opportunity to submit its explanation.

24. (1) The Local Government may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

(a) if, in the opinion of the Local Government or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or

negligence in the discharge of the duties imposed upon him by or under this Act, or

- (b) if the employing interest, *on whose application the licence was granted*, has applied to the Local Government or to the District Magistrate, as the case may be, for the cancellation of the licence, or
- (c) *if in the opinion of the Local Government or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:*

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the Local Government, whose decision shall be final.

25. Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 38, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER IV.

RESTRICTED RECRUITING AREAS.

26. (1) * * * * *

Power to declare restricted recruiting areas. The Local Government of a recruiting province may with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare any controlled emigration area or any part of a controlled emigration area within such province to be a restricted recruiting area, and thereupon the provisions of this Chapter shall apply to that area:

Provided that, subject to the like sanction, the Local Government may, by the same or by subsequent notification, declare that any of the

provisions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 28 or certificates may be granted and endorsements made under section 29, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

27. * * * * *

28. (1) Subject to rules made under sub-section (2), and sub-section (3),
Grant of licences to the District Magistrate
recruiters. may grant a licence to
any person to act as recruiter in the whole or
any part of his district.

(2) The Governor General in Council may, by notification in the * * Gazette of India, make rules—

* prescribing the qualifications for persons who may be granted licences under this section.

(3) The Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules—

(b) regulating the procedure of the District Magistrate in granting such licences,

(c) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

29. (1) Subject to rules made under sub-section (2), the owner or manager
Grant of certificates to of a tea estate may grant
garden-sardars. a certificate to any person
employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified :

Provided that the Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf.

(2) The Local Government of Assam may make rules—

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

30. The District Magistrate may, *for reasons to be recorded by him*, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act :

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

31. (1) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall *record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.*

32. Whoever, not being a licensed recruit *holding a licence under section 28, or a garden-sardar holding a valid certificate under section 29, or a local forwarding agent holding a licence under section 17*, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam *as an assisted emigrant*, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER V.

SUPPLEMENTAL.

33. (1) No person shall in any way assist a child to proceed from any recruiting province to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, *and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband.*

(2) Any person who *knowingly* contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

34. (1) Where it appears to the Controller that *any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit*

state of health to proceed on his journey, the Controller may—

- (a) detain *such person* and his family,
- (b) send the *sufferer* for medical treatment to a hospital or dispensary or other suitable place, and
- (c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf *such person* was recruited.

(2) Where it appears that a *sufferer* detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the *home of the person proceeding with assistance* by and at the cost of the employing interest on whose behalf *such person* was recruited.

35. Where it appears to the Controller *after such* Power to return person *inquiry as he thinks fit to* improperly recruited. *make that any person proceeding to a tea estate with assistance—*

- (a) has ~~been~~ recruited by coercion, undue influence, fraud or misrepresentation, or
- (b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that *such person* and his family shall *if such person so desires* be returned to *his home* by and at the cost of the employing interest on whose behalf he was recruited.

36. (1) If an employing interest fails to make Power to enforce the arrangements to the provisions of sections 34 satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 34, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(2) In making a direction under sub-section (2) of section 34 or under section 35 * * * * * the Controller may fix a period within which *such person* and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the *employing interest concerned, and to the nearest agent, if any of such employing interest in the province where such person then is.*

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause *such person* and his family to be returned to *his home* and defray the costs out of any funds at the Controller's disposal.

(4) The Controller *shall recover* any costs incurred by him under this section *from the employing interest concerned, and for the purposes of such*

recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

37. (1) *Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.*

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) The Local Government of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the Local Government of Assam may invest a Sub-Divisional Magistrate with any of the powers of the Controller under section 4 or section 34 or section 35 or section 36 in respect of his district or sub-division, as the case may be.

(4) The Local Government may invest any medical officer *not below the rank of Assistant Surgeon* with any of the powers of the Controller under section 34 and section 36.

38. (1) The Governor General in Council may, *Power of Governor General in Council to make rules.* by notification in the *Gazette of India,* make rules—

(a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;

(aa) *where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities;*

(b) prescribing scales of subsistence allowances for the purposes of section 12;

(c) prescribing the form of agreements under section 14;

(d) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts;

(e) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents;

(f) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious

disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder ;

- (g) directing that employers of emigrant labourers shall keep register of such labourers and their families, and prescribing the form of such registers ;
- (h) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers, and their families, and of their journeys to and from Assam, and prescribing the form of such registers ;
- (i) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the Governor General in Council may think expedient for carrying out the purposes of this Act ; and
- (j) generally, to carry out the purposes of this Act.

(2) The Local Government of Assam may, by notification in the local official Gazette, make rules requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) In making rules under sub-section (1), the Governor General in Council, and in making rules under sub-section (2) the Local Government, may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

39. (1) The Governor General in Council may, by notification in the Gazette of India, declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(2) Subject to the control of the Governor General in Council, the Local Government of Assam may, by notification in the local official Gazette, declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

39A. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

40. (1) The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal of Act VI of 1901 and certain consequences.

(2) The Assam Labour Board constituted under section 116A of the Assam Labour and Emigration Act, 1901, is hereby dissolved.

(3) All accumulations of the cess leviable under section 116E of the said Act are hereby transferred to the credit of the Emigrant Labour Fund, subject to the payment of all outstanding claims payable out of the said accumulations.

THE SCHEDULE.

(See section 40.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1901	VI ..	The Assam Labour and Emigration Act, 1901.	The whole.
1908	XI ..	The Assam Labour and Emigration (Amendment) Act, 1908.	The whole.
1915	VIII ..	The Assam Labour and Emigration (Amendment) Act, 1915.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	In Part I of the First Schedule, the entry relating to the Assam Labour and Emigration Act, 1901 (VI of 1901).
1927	XXXI	The Assam Labour and Emigration (Amendment) Act, 1927.	The whole.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the Bill
to amend the law relating to emigrant
labourers in the tea districts of Assam,
with the Bill as amended.