

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

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ABSTRACT OF THE PROCEEDINGS

1877

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1876.

WITH INDEX.

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1877.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Tuesday, the 25th January 1876.

PRESENT:

His Excellency the Viceroy and Governor General of India, G. M. S. I.,
Presiding.

His Honour the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir H. W. Norman, K. C. B.

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble Sir W. Muir, K. C. S. I.

The Hon'ble Sir A. J. Arbuthnot, K. C. S. I.

Colonel the Hon'ble Sir Andrew Clarko, R. E., K. C. M. G., C. B.

The Hon'ble J. R. Bullen Smith, C. S. I.

The Hon'ble John Inglis, C. S. I.

The Hon'ble Sir Douglas Forsyth, C. B., K. C. S. I.

The Hon'ble Ashley Eden, C. S. I.

The Hon'ble T. O. Hope.

The Hon'ble D. Cowie.

The Hon'ble Rájá Narendra Krishna Bahádur.

NATIVE PASSENGER SHIPS BILL.

The Hon'ble Mr. Honhouse asked leave to postpone the motion that the Final Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships and Coasting Steamers be taken into consideration.

Leave was granted.

BURMA LABOUR CONTRACT BILL.

The Hon'ble Mr. Honhouse moved that the final Report of the Select Committee on the Bill to regulate the transport of Native labourers to British Burma and their employment therein be taken into consideration. This was a matter upon which he need not detain the Council any length of time, because the alterations made in the original Bill were fully explained by him to the Council on presenting the first Report of the Committee,

and there had been exceedingly little alteration since. The Bill was introduced so long ago as the month of August 1873, and he had before explained to the Council why it was not proceeded with. The reason, stated shortly again, was this, that when the Bill was introduced, there was no regular system of emigration into Burma. It had not been before the Council very long when the Bengal famine came, and with the famine a system of emigration to Burma was set up. The consequence was, that the Government of British Burma, which was then presided over by his hon'ble friend Mr. Eden, desired the Council to hold their hands in order that we might get experience of the actual working of emigration to Burma. Well, now that experience had been gained and the system so set up for emigration had proved satisfactory to the Government of British Burma, and the result was a considerable alteration of the basis on which the original Bill was framed. The basis of the original Bill proceeded entirely upon a private contract between the labourer and the employer. The basis of the present Bill was a contract between the labourer and the Government, or, to put it more technically, between the labourer and the Secretary of State in Council, who, for all purposes of contract and purchase, represented the Indian public. MR. HOBHOUSE had before explained to the Council the effect and extent of that alteration, and showed that it led to a considerable change in the details of the Bill. Well, that alteration was made in July last. The Report of the Select Committee was published, and they had since received comments on the new Bill. The result was a very general agreement that the Bill was calculated to effect the objects desired by the Government. The only alteration of any importance that had been made since the publication in July last was this, that the Committee had again reverted to the system of private contracts so far as to admit the possibility of a labourer proceeding from India to Burma in order to serve a particular employer. The Bill still provided that the contract should be with the Secretary of State, but instead of being a contract to serve wherever the Chief Commissioner should direct, it was a contract to serve a particular employer in a particular place, and a provision was inserted whereby an employer who received the services of that labourer should be bound to repay to the Government all the expenses which the Government had incurred in importing the labourer into Burma. These expenses would be provided for, in the first instance, by some special bargain to be made on the assignment of the labourer to his employer. Gradually, as experience accumulated, it would be found what was the proper mode of regulating the transaction with the employer; and the Bill had given the Local Government power to make rules for the purpose of regulating these assignments. There were some other alterations of detail,

but they were few and unimportant, and were all mentioned in the Report, and there was nothing else which called for any explanation.

The Hon'ble Mr. EDEN, having a special interest in British Burma, thought it but right to say that the Bill, as settled by the Committee, appeared to him in every way adapted to meet the requirements of the Province. It appeared from the correspondence received from the local authorities of Burma, that there was some misapprehension as to the manner in which it was intended to work this Bill. There seemed to be a doubt whether any interference of the State by law would introduce into the country any great amount of labour. The present system of importing labourers, which had been alluded to by the Hon'ble Member, no doubt had been the means of bringing into the country a large increase of labour. But it had failed, partly from the difficulty of procuring good labourers ready to go from this side of India to Burma, and partly from the great cost of recruiting and sending them there. The consequence was that the men arrived in the country with a heavy load of debt, which they found it difficult to pay, and in many cases the amount advanced by the State was not recovered. But his object in now pressing for this Bill was chiefly to enable the Government of Burma to recruit in other fields. The circumstances of the Northern Ports of Madras were entirely different from the labour markets of Bengal. The people of the Northern Districts of Madras had long been in the habit of going to seek labour in Burma, but unfortunately they were exposed to great difficulty, oppression, and mismanagement under the system by which they were now transported and employed. At present they were put on board of Native ships, or it might be coasting steamers, without any contract or without any means of paying for their passage; they remained on board until their services were purchased by Native contractors who came on board, and on their paying the passage-money obtained from them an agreement to serve them for a very long period and on very low terms: and in one way or another these men managed to keep the labourers in their hands and deprive them of the real value of their labour. What he supposed would at once be done under this Bill was that the Chief Commissioner would appoint an Agent in the Northern Madras Ports, who would be in the same position as the Emigration Agent lately employed in Calcutta, and he would see the labourers put on board and arrange for their passage under a proper system; and as soon as they arrived in Burma, the Immigration Agent there would assign their labour and see that the men obtained the full value of their labour in the local market, without the interference of any middlemen. He thought that as soon as that was done there would be an enormous increase in the number of labourers, and they would get rid of the present system, which was open to very great objection.

The only substantial objection which had been raised to the Bill by the employers of labour was that which had been alluded to by his hon'ble friend Mr. Hobhouse, namely, the power they desired to have of sending their own agents to Madras and elsewhere to recruit labourers for themselves. That objection had now been entirely met, and while we left the present system of free emigration entirely untouched, Mr. EDEN thought that the Bill as it now stood would enable the Local Government to introduce into Burma a large amount of labour to the great benefit of the province, and to the great advantage of the overstocked districts of Madras.

His Honour THE LIEUTENANT-GOVERNOR, like the hon'ble member who had just addressed the Council, also had a special interest in this Bill; and he thought it right to express in general terms his entire concurrence in the objects and purport of the Bill. It was desirable that a certain proportion of the surplus labour in Bihár should be deported to the rich and comparatively untouched fields of employment in British Burma; and therefore it was most important that there should be appointed an Agent on behalf of the administration of Burma who should make arrangements in this country with labourers. With respect to emigration to the West Indian Colonies, one difficulty had been felt, in that no proper contract could be entered into with the labourers in this country. The want had been felt regarding our colonial experience of the means and machinery whereby a contract could be made with the labourers before leaving Indian shores. No doubt if emigration to Burma was to prosper, the same want would be felt; and he observed with satisfaction that this Bill provided for these two particulars—*first*, that there should be Agents on behalf of the Government of Burma to make arrangements for Bengal labourers; and *secondly*, that the Agents should have power to enter into satisfactory contracts with the men in this country before leaving their homes. With that general observation, His Honour on behalf of the Bengal interests involved in these particulars begged to express his entire approval of the Bill.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE moved that the Bill as amended be passed.

The Motion was put and agreed to.

PLEADERS, MUKHTARS AND REVENUE AGENTS' BILL.

The Hon'ble MR. HOBHOUSE also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Pleaders, Mukhtars and Revenue Agents in Northern India. He was not about to make any motion, but as the Bill had assumed now a very shrunken appearance, it was perhaps better to explain to the Council how it came

to be in the form in which it was now. The Bill was introduced a very considerable time ago, for the purpose, principally, of establishing a uniform law throughout India on the subject of these practitioners. There was also another object in the Bill, which was to alter the law respecting the remuneration of pleaders and mukhtars as between themselves and their clients. There had been a great deal of correspondence on the Bill, as the Council would easily see by casting their eye through the margin of the Committee's Report. There would be seen a list of a number of papers, some very voluminous, which had come to the Committee, and the matter had been a considerable time in their hands. The result of the examination of these papers was that there was so much difference between the different parts of India with respect to the mode of conducting legal business, that it was not desirable to attempt a uniform law for the whole of India. All the Local Governments objected to it, and on an examination of their objections, the Committee thought the objections were sound. Again, with respect to remuneration there was an almost universal objection to the change, from pleaders and mukhtars who were practising all over the country; they pointed out some practical objections to the alterations that were proposed, and they also entered into a considerable amount of evidence to show that the mischiefs which were supposed to result from the present system had no real existence, or were not nearly so great as was supposed. Well, the present system of remuneration, which left perfect freedom of contract between pleader and client, had been affirmed by this Council in 1865, and had since been affirmed by the Executive Government, who had extended the Act of 1865 to other provinces of India, besides that of Bengal, for which it was passed. And on consideration of what was said on this subject, the Committee thought that there was not sufficient evidence to show them a clear way to alter the substantive principle which had been so recently affirmed by the Council. In fact it was better to let matters go on working as they were, and to leave it to our successors, if need be, to make any alterations. Well, when these two objects were abandoned, it was found that the great body of the Bill had better be abandoned too; for though some slight consolidation of the law might be effected, yet it was so exceedingly small that it was not sufficient to warrant our passing the Bill. The consequence was that the whole Bill would have been dropped but for one local object effected by it, and that was the object which was aimed at by the single section which it was proposed to retain. It affected a class of practitioners in Bengal alone, who were called "Revenue Agents." They were agents qualified to practise in the Revenue Courts; they were admitted on a certain amount of examination and on certificate, and had a

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recognized position in those Courts. One considerable department of practice in those Courts used to be what were called 'rent suits,' suits between landlords and tenants, and Revenue Agents conducted the practice in those suits at the time when the Act of 1865 was passed and for some years afterwards. They had thereby acquired considerable knowledge of the matter and had conducted their business, we were told, with satisfaction to their clients and the general benefit of the public. Well, an alteration of the law was made by a Bengal Act with respect to these rent suits, and instead of being instituted in the Revenue Courts, they were turned over to the Civil Courts. Now Revenue Agents had no right to practise in the Civil Courts, and the consequence of the shifting of rent suits from the Revenue Courts to the Civil Courts was this, that the Revenue Agents found themselves deprived of a kind of practice which they had before, and their clients—landlords and tenants—found themselves deprived of the services of men whom they, as we were told, had learned to value, and whose services they still desired to employ. The Government of Bengal, then represented by Sir George Campbell, applied for an alteration of the law to enable the Revenue Agents to practise in the Civil Courts, only in *rent* suits, not further than that, and a clause was put in the original Bill for that purpose. His hon'ble friend Sir Richard Temple took the same view; namely, that the alteration should be made, and the Bill would now just carry out that wish of the Government of Bengal; a wish which seemed exceedingly reasonable, whether we considered the interests of these Revenue Agents or their clients. The Committee had therefore retained that one section of the Bill and proposed to pass it in that form. At the next meeting of the Council, he hoped to move that the Report of the Select Committee be taken into consideration and the Bill passed.

His Honour THE LIEUTENANT-GOVERNOR had only to express, on behalf of the Government of Bengal, his obligations to the hon'ble mover of the Bill, and also to express the satisfaction with which he had listened to his hon'ble friend's explanation of the merits of the case. This Bill would open out to a very important and influential body of law practitioners in Bengal a particular field of employment which they were peculiarly qualified to occupy, both as regards the great landed interest in Bengal and also the interests of the ryots, and His Honour had no doubt they would discharge their functions to the satisfaction of the public. He said they were qualified, because they were subject to as strict a system of examination in these matters under the Board of Revenue as could be desired. He had no doubt that this Bill, if passed into law, would add, he would not say to their influence, because they possessed that already, but to their status, emoluments and respectability. The Council were aware that it

was very important that a body of practitioners, who possessed so much influence and had a large practice in one particular class of business, should be legally allowed to practise in this other remunerative work, as this would add to their status and general trustworthiness.

CHUTIA NAGPUR INCUMBERED ESTATES BILL.

His Honour THE LIEUTENANT-GOVERNOR introduced the Bill to relieve from incumbrances certain estates in Chutia Nagpur, and moved that it be referred to a Select Committee with instructions to report in a month. He said that it would be in the recollection of the Council that at the last meeting he stated the objects and reasons for introducing this Bill, and he had only now to add that the draft Bill now on the table had been framed strictly on the model of the Bill passed into law some years ago for Oudh. Since the last meeting, he had learned incidentally that the effect of the Act in Oudh had not been quite so satisfactory in all respects as he had supposed when he addressed the Council. But still he was sanguine that the principle of the Act, and consequently the principle of this Bill, which was framed upon the model of that Act, was really sound and workable. If there had been any defects in the practical working of the Act in Oudh, he supposed they must have arisen from local circumstances. And if the experience of Oudh should be available to us in the Select Committee, he had no doubt that they should be able to make various improvements in detail. But still he was confident that the Act as it stood and this Bill were sound and good in the main; and if there were any improvements which could be made in the details, they could be effected in Committee. He had no doubt that one or two Hon'ble Members on his right, who had special experience in the working of the Act in Oudh, would consent to serve on the Committee, and give the Committee the benefit of their experience. With these remarks, he had now to introduce the Bill and to move that it be referred to a Select Committee with instructions to report in one month.

His Excellency THE PRESIDENT thought that it would be a great advantage, as suggested by His Honour the Lieutenant-Governor, that the deliberations of the Council upon this Bill should be assisted by the appointment of Mr. Inglis to the Select Committee, because, when he acted with so much advantage to the public service as Chief Commissioner of Oudh, he paid great attention to the working of the Oudh Taluqdars' Act, which in some respects had not been altogether satisfactory, and therefore his presence on the Committee would enable him to make valuable suggestions with respect to this measure.

The Motion was put and agreed to.

His Honour THE LIEUTENANT-GOVERNOR then moved that the Bill be published in English in the *Gazette of India* and in the *Calcutta Gazette* in such languages as the Lieutenant-Governor of Bengal shall direct.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to relieve from incumbrances certain estates in Chutia Nágpur
The Hon'ble Messrs. Hobhouse, Inglis and Hope and the Mover.

The Council then adjourned to Tuesday, the 8th February 1876.

CALCUTTA,

The 25th January 1876. }

WHITLEY STOKES,

Secretary to the Govt. of India,

Legislative Department.