

**Friday,  
19th December, 1884**

**ABSTRACT OF THE PROCEEDINGS**

**OF THE**

**Council of the Governor General of India,**

**LAWS AND REGULATIONS**

**Vol. XXIII**

**Jan.-Dec., 1884**

ABSTRACT OF THE PROCEEDINGS

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

1884

VOL. XXIII



Published by the Authority of the Governor General

CALCUTTA :  
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,  
1884



*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 Friday, the 19th December, 1884.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.,  
G.C.M.G., P.C., F.R.S., D.C.L., G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of Bengal, C.S.I., C.I.E.

His Excellency the Commander-in-Chief, G.C.B., C.I.E.

The Hon'ble J. Gibbs, C.S.I., C.I.E.

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

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

The Hon'ble T. C. Hope, C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G.

The Hon'ble J. W. Quinton.

The Hon'ble T. M. Gibbon, C.I.E.

The Hon'ble R. Miller.

The Hon'ble Amír Ali.

The Hon'ble W. W. Hunter, LL.D., C.S.I., C.I.E.

The Hon'ble H. J. Reynolds.

The Hon'ble Peári Mohan Mukerji.

The Hon'ble H. St. A. Goodrich.

In opening the Proceedings at the Council, His Excellency the **PRESIDENT** made the following remarks :—

**“YOUR HONOUR AND GENTLEMEN :—**I cannot take my seat for the first time at this Council Board without desiring to express to you the extreme satisfaction which I feel in being associated with so many distinguished persons in the government of this great dependency. I feel that for a very long time I must be little more than a learner in regard to the details of many of those important questions which will come up before us from time to time. But it makes me happy to think that I shall have for my colleagues and advisers men so thoroughly acquainted as yourselves with everything that is connected with the administration of India, and in whom both Her Majesty's Government and the

**300 SEA PASSENGERS. CAR.; TARIFF; STRAITS SETTLEMENTS EMIGRATION.**

[*The President ; Mr. Ilbert ; Sir A. Colvin ; Sir S. Bayley.*] [19TH DECEMBER,

general public possess such confidence. I only hope that I, on my side, will be able to do what is incumbent upon me for expediting the public business to your satisfaction."

**CARRIAGE OF PASSENGERS BY SEA BILL.**

The Hon'ble MR. ILBERT introduced the Bill to amend the law relating to the carriage of passengers by sea, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Reynolds, Miller and Goodrich and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the *Fort St. George Gazette*, the *Bombay Government Gazette*, the *Calcutta Gazette* and the *British Burma Gazette* in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

**TARIFF ACT, 1882, EXCISE ACT, 1881, AND BENGAL EXCISE ACT, 1878, AMENDMENT BILL.**

The Hon'ble SIR A. COLVIN introduced the Bill to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Gibbs and Ilbert, Rao Saheb Vishvanath Narayan Mandlik, the Hon'ble Mr. Goodrich and the Mover.

The Motion was put and agreed to.

The Hon'ble SIR A. COLVIN also moved that the Bill and Statement of Objects and Reasons be published in the local official Gazettes in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

**STRAITS SETTLEMENTS EMIGRATION ACT, 1877, REPEAL BILL.**

The Hon'ble SIR STEUART BAYLEY moved that the Bill to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, be taken into consideration.

The Motion was put and agreed to.

1884.]

[*Sir Steuart Bayley.*]

The Hon'ble SIR STEUART BAYLEY also moved that the Bill be passed. He said :—

“ When I obtained leave in October last to introduce the Bill that is now before the Council, I explained at some length the historical aspect of the case, and the reasons which led the Government of India to think that the time had come for repealing Act V of 1877, and leaving emigration from Madras to the Straits Settlements perfectly uncontrolled on the Madras side, while relying on the protection to be afforded by the Straits Government to the emigrant after his arrival. I need not go over this ground again ; it will be sufficient to repeat that the Act refers solely to Madras ; that emigration has been free over the rest of India since 1872, but practically, except from Madras, there has been little or no emigration to the Straits ; that the Act itself was a compromise between the free emigration which the Straits authorities desired and the general system of State emigration which obtains with other colonies ; that there was a conflict of law between this Act and the Straits legislation, the latter providing for the recovery of advances made to the emigrant before leaving India, while the former declared all contracts for the recovery of such advances to be null and void ; and that as a matter of fact the Act had been a failure, for it appeared that of the total number of Natives of India emigrating to the Straits less than a quarter were registered and protected under this Act, while the other three-quarters went over nominally as free passengers, though to a great extent assisted by advances from the labour-contractors.

“ I explained that when Act V is repealed the only restriction on emigration on this side of the water will be that emigrants will be registered by the Emigration Officer, and a complete nominal roll prepared by him will be conveyed by the commanders to the Straits authorities, and that the emigrant will make his contract after arrival at the Straits before the Emigration authorities of that Government : I added that the protection provided for in the Ordinance framed by the Straits Government appeared to us and to the Madras Government to afford sufficient protection and was framed to a great extent on the lines of our own protective legislation.

“ That Ordinance has now been passed into law by the Straits legislature, and the Government of the settlement are urgent in asking us to lose no time in repealing the Act of 1877.

“ I may mention that the Ordinance did not pass into law unopposed in the local legislature. There are certain provisions in the Ordinance which were

considered to interfere unduly with the liberty of the subject, and which were not only opposed in the legislature but have been made the subject of remonstrance to the Government of Madras. The object of these provisions is to prevent the free emigration to the Straits being made a cloak for the purpose of evading our law by means of transshipping emigrants from the Straits to other places, such as the Dutch Settlements, with which we have no convention, and to which emigration from India would be illegal, and where the Indian coolie would be unprotected.

“It was clearly incumbent on the Straits Government to prevent this, and they have loyally carried out the obligation, though at the cost of some difficulty in passing their Ordinance, and the Government of India are bound to express their gratitude for the consideration herein shown to their wishes.

“The Bill now before the Council is, as I said before, exceedingly simple in its provisions. It has been circulated to all the Local Governments and Administrations. The Madras Government have expressed themselves fully satisfied with it, and the other Governments, with one exception, have also approved it, Sir Charles Aitchison from the Punjab expressing an emphatic approval of the principle of freeing emigration from all restrictions before departure, and trusting to protection after arrival. There is, however, one exception. From the Government of Bengal have come certain objections, but the letter explaining those objections (Paper No. 10 to the Bill) is, as will presently be seen, written under a misapprehension. The misapprehension, I ought to explain, is probably due to some correspondence with the Revenue Department, which took place in April last, before the action to be taken was finally settled with the Madras Government, and in which His Honour the Lieutenant-Governor was consulted as to the expediency of extending to Bengal certain regulations which the Straits Government proposed as sufficient, in conjunction with their own Ordinance, for regulating emigration from Madras. None the less the letter is written under a misapprehension. The Government of India do not, as supposed by the Government of Bengal, propose substituting any legislation for Act V of 1877, much less do they propose to apply such legislation to Bengal, and the only executive control which they propose to exercise is to cause the nominal roll, which is already required by the Native Passenger Ships Act, to be prepared by the Emigration Officer and to be delivered by the commander of the vessel to the authorities of the Straits.

“This of course touches only the form of the objection. The substance of the objection is to the fact of our recognising in any way the system of recover-

1884.]

[*Sir Stewart Bayley.*]

ing advances which is provided for in the Straits Ordinance. Now, this system is one which we do not recognise, as the Government of Bengal rightly observe, in our dealings with emigration to other colonies. It is undesirable that in colonies where at the best the Indian emigrant is not only a stranger in a strange land, but very helpless in the hands of the employer-class, that he should start under the burthen of a load of debt; and in these colonies the supply of Indian emigrants has been such an urgent necessity for the welfare of the colony that we have been able to insist on a different system being adopted. That system is that the coolie before leaving India enters into a contract not with a particular employer but with the Colonial Government through their agent here. The Colonial Government pay all his expenses from the moment of his recruitment up to the time of his arrival at the colony from the general revenues, and we look to them to carry out the terms of the agreement as against any subsequent employer. In other words, these advances are made in those cases not by the individual employer but by the Colonial Government. Of course, in the long run these advances have to come out of the coolies' wages in some shape or another. It may take the shape of a lower rate of pay, or, as in Assam, of a longer indenture, than would otherwise be insisted on; but we may be assured that in some shape or another the colony recoups its expenditure from the labour fund ultimately, though by the method adopted the first payment comes out of the pocket either of the tax-payers in general or of a special class. The case of the Straits, however, is different, and it is different in two ways. In the first place, owing to other sources of labour-supply being open to them, the Indian element is not of such urgent importance to the colony as to justify their maintaining a system of State immigration out of the general revenues, and they have always steadily refused to do so; on the other hand, a system of free emigration has been going on between the Madras Coast and the Straits ever since the beginning of the century, and the settlers from Madras form a strong and important element in the community, quite capable of looking after themselves and protecting their countrymen. In other words, we have neither the only lever wherewith we could move the Straits Government to adopt the colonial system, nor is there the same necessity for it there as elsewhere. As I have already observed, Act V of 1877 was intended to stop the system of emigration under advances by rendering the recovery of such advances illegal. The result has been that four-fifths of the emigration to the Straits have evaded the restrictions of the law, and have gone on unregistered and unprotected as well as unhampered by that Act. It is in consequence of the entire failure of the Act in this respect that we have now before us, with the full acceptance of the Madras Government, the proposal to repeal

the Act and to rely on protection in the colony rather than on restriction at the place of departure.

“So much for Madras; now what is the position of Bengal in regard to this question? Since 1872 there has been no legal restriction whatever on emigration from Bengal to the Straits. Act XIV of 1872 empowered the Government to exempt by notification the Straits Settlements from all its provisions, and in June of that year a notification to this effect was accordingly issued. If any emigration has taken place between Bengal and the Straits during the past fourteen years, it has been perfectly free, and there has been no interference with the power of the Straits Courts to order the recovery of advances. There has been a legal power to rescind that notification, but no one has ever asked that it should be rescinded; and why? The real reason is to be found in the simple fact that there has practically been no emigration from Bengal to the Straits. Of course, such a system may hereafter grow up, but at present, so far as I can learn, there are no signs of it. Under the Act which was passed last year, but which has not yet come into force, for regulating emigration to the colonies, the Straits Settlements are expressly excluded in the definition; in other words, no restriction is placed on emigration to those Settlements, but the Act gives power to the Government to extend the provisions of Act V of 1877 to other parts of India. At that time it was uncertain whether the Madras Act would be amended or repealed, but, as was explained at the time, there was no intention whatever of extending the Act as it stood to other parts of India. In any case fresh legislation would have had to be resorted to if it were desired to control emigration from Bengal to the Straits. The repeal, then, of Act V of 1877 leaves the position *quoad* Bengal exactly where it was, and the objections of His Honour are really of a theoretical rather than of a practical nature. The question he asks is, in effect, ‘If there were emigration from Bengal, would it be right to regulate it on the same lines as those on which emigration from Madras is regulated?’ I think for our present purpose it is scarcely necessary that I should try and find an answer to this question. I may, however, venture to assure the Lieutenant-Governor on the part of the Government of India that we recognise a distinction between the circumstances which surround a Madras coolie at the Straits and those which would surround a Bengali coolie, and if emigration between Bengal and the Straits should receive an important development it will be open to him to propose a stricter method of regulating it, and that any measure which he proposes will receive the fullest consideration.

“Before leaving off I may explain exactly what the recognition of the system of advances amounts to. The immigrant comes under contract after



1884.]

[*Sir Steuart Bayley ; the Lieutenant-Governor.*]

arrival at the Straits before the Indian Immigration Agent. He is specially warned (section 27 of the Ordinance) that no contract unless so made is valid. Section 43 provides that this officer shall, before entering in the contract-deed the amount advanced, satisfy himself that it has really been paid in full to or on account of the emigrant. Then section 42 limits the entire amount which can be recovered to 12 dollars, and the instalments in which it can be recovered to one dollar a month. The minimum wages are 3.60 dollars a month, so that the deduction cannot be more than about 25 per cent. on a man's average earnings for a year. This completes all I need say on the subject; and apologising for the length at which I have occupied your attention,—a course which my respect for the objections offered by so high an authority as the Lieutenant-Governor of Bengal seemed to render incumbent on me,—I have only to express my hope that the Bill may be passed, and that the system of free emigration, which has already been extended to Burma, may prove successful in the Straits."

His Honour THE LIEUTENANT-GOVERNOR said :—" My Lord, before your Excellency puts to the Council the question that this Bill be passed, I would ask to be allowed to make a few observations with reference to the remarks which have fallen from my hon'ble friend in charge of the Bill; and more especially from the fact that I find that I am referred to as the one solitary exception among many great authorities who have taken no objection to the proposals of the Government of India. I may say at once that I do not now intend to raise any question as to whether this Bill should or should not be passed, or to delay in any manner the carrying of the Motion which is to be put to the Council. The Act which it is proposed to repeal is an Act of this legislature passed in the year 1877, and, as Sir Steuart Bayley has said, applies exclusively to the Presidency of Madras. As that Act has now become obsolete from circumstances which have made its retention on the Statute-book clearly not necessary, it does not concern the Bengal Government whether it remains on the Statute-book or whether it be repealed. The fact is that emigration from the Madras Presidency to the Straits Settlements has been going on, I believe, from the commencement of the present century. A large Madras population is, therefore, collected in the Straits Settlements for the purpose of labour, and all attempts which have been made by the Government of India to restrict that emigration to the same system under which emigration generally is carried on to the colonies have been found abortive. I find from the papers that since 1877, while only 4,500 emigrants have passed out from Madras to the Straits Settlements under the operation of the Act, not less than 25,000 have gone outside of it. The reasons for this, amongst others, are, I believe, that there

are two French ports within the limits of the Madras Presidency, and whatever attempts the Government might make to control and supervise emigration from Madras are frustrated, where objections are taken to those restrictions, by coolies being taken from our own districts to ports of embarkation in French territories; and then they are absolutely beyond the control of either the Government of Madras or the Government of India. The necessity, therefore, for a repeal of the law became obvious from the fact that free and unrestricted emigration was going on from Madras to the Straits Settlements, and as far as the mere repeal of the Act I have nothing to say. But it is in the circumstances which are connected with the repeal of the law and which have reference rather to the executive arrangements which the Government of India have made with the Straits Settlements that the matter deserves attention. When the question was referred to me as Lieutenant-Governor of Bengal, whether I had any objection on my part to the extension of similar arrangements as had been concluded between Madras and the Straits to this part of India, I thought it my duty to take exception to the Ordinance of the Straits Settlements which relates to the regulation of emigration to that colony. Under the operation of the general Emigration Act which was recently passed, it is known to the Council that the greatest strictness is enforced as regards all circumstances connected with the recruitment, registration and deportation of labourers going from any part of India to the colonies. We insist upon the certificate of the recruiter being produced in the recruitment district, and the registration of those who intend to emigrate before the local authorities of that district. We regulate their being brought down to Calcutta to emigration-depôts in this city; we insist as a primary condition that there shall be no kind of advances made to the coolie, that he fully understands his contract before he leaves the country, and that he leaves it unshackled by any debts. These general conditions under which emigration is directed are the outcome of a great many years of consideration, discussion and experience. Nothing has been so strongly insisted upon in my recollection of the subject when I was connected with the Government of India than that no system of advances should be tolerated. When, therefore, it was put before me that emigration from Bengal to the Straits might be allowed on the open system under which advances were permissible, I thought I was bound to take the exception which my former experience of the subject justified me in taking. The obvious reasons as regards these objections are, that, in the first place, we have now some thirteen colonies competing in the labour markets in Bengal for coolies to emigrate to their respective colonies, and they all work under a system which does not recognise the two provisions to which I

[*The Lieutenant-Governor; Mr. Ilbert.*] [18TH DECEMBER, 1884.]

have referred. Now, if the recruiter from the Straits Settlements is to arrive in Bengal authorised to recruit, and free from all those conditions as to registration and other restrictions which the general law imposes, and is to go into the interior of the country with money to induce labourers to accompany him, not only would he probably succeed from the fact that the people of Bengal are very credulous, and are ready to take money from everybody who offers it to them, completely indifferent as to the circumstances or conditions under which they take it, but he would be enabled to take away labourers, ignorant of the terms of their contracts and bound by a load of debt which may be increased by claims for clothing, food and other things after their arrival at their destination. The Bengali emigrant would thus be in a very unsatisfactory position. Then, again, if the Straits Settlements recruiter is empowered to advance money, he is very favourably circumstanced as compared with recruiters for other colonies; and it would come to pass, I have no doubt, in a very short time, that, if we allow this system to arise in Bengal with regard to the Straits Settlements, we shall find the Emigration Agents in Calcutta, for Mauritius, the West Indies and different places claiming to be placed in the same condition as the favourably constituted Straits Settlements recruiter; and I don't know how we should be able to resist their claim. Therefore, I am sure the practice would grow; and, as the system has been condemned as a bad and a mischievous one, I felt, when I was asked whether the proposal was applicable to Bengal, that I was bound to oppose it as one which it was not desirable to encourage in this Presidency. There are other objections, to one of which my hon'ble friend has already alluded, namely, that a coolie going from Bengal is going among a strange population; and if the Straits Settlements authorities understand that under the arrangements recently made with them, they are at liberty also to come to Bengal and carry out a procedure which may be quite right and reasonable with regard to the Madras Presidency, from the fact that emigration from Madras has been going on for half a century or more, we are absolutely without any kind of protection, and may ultimately see a system grow up which is altogether objectionable. Therefore, I am very glad to receive the assurance, which my hon'ble friend now gives me, that, if such a state of things should arise, I should have a right to appeal to the Government of India to afford me that legislative protection as regards emigration from Bengal to the Straits Settlements which is necessary to make it consistent with the general principles which govern emigration to the Colonies."

The Hon'ble MR. ILBERT said :—" I understand the law and facts of the matter to be shortly these. At present there is no law regulating emigration

1884.]

[*Mr. Ilbert.*]

from Bengal to the Straits Settlements, and no emigration to which such a law, if it existed, would apply. There is a law regulating emigration from Madras to the Straits, and there is on our Statute-book a provision enabling the Government by executive order to apply that Act to other parts of India, including Bengal. As I was in charge of the measure which contained the provision giving that power, perhaps I might be allowed to remind the Council of the reasons I then gave for its insertion. I then said:—

‘The Indian emigration to that colony takes place, I believe, exclusively from the Madras Presidency, and is at present regulated by a special Act (V of 1877) which applies only to that Presidency. We are now engaged in negotiations with the Government of the Straits Settlements, which will, I hope, before long enable us to repeal this Act and to make emigration to that colony entirely free. But in the meantime, and as a temporary measure, we have thought it expedient to take power to extend the Act to other parts of British India, in case it should be found necessary to regulate emigration from Calcutta to the Straits. I do not in the least anticipate that the Act will be found necessary, because I believe that no such emigration takes place, or is likely to take place.’

“We are now in a position, with the full approval of the Straits Settlements Government and the Government of Madras, to repeal the Madras Act, and as to Bengal I feel sure the Council will be of opinion that our proper course is to wait until the necessity for legislation has been shown to exist, and then to adopt such measures for regulating emigration and protecting emigrants as the actual facts may show to be necessary.”

The Motion was put and agreed to.

#### BURMA STEAM-BOILERS AND PRIME-MOVERS ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. ILBERT presented the Report of the Select Committee on the Bill to amend the Burma Steam-boilers and Prime-movers Act, 1882.

The Council adjourned to Friday, the 2nd January, 1885.

FORT WILLIAM;  
The 26th December, 1884. }

D. FITZPATRICK,  
Secretary to the Government of India,  
Legislative Department.