

*Friday,
13th October, 1899*

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

LAWS AND REGULATIONS

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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 13th October, 1899.

P R E S E N T :

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

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

CENTRAL PROVINCES COURT OF WARDS BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Court of Wards in the Central Provinces be taken into consideration. He said:—"The alterations which the Committee propose are fully explained in our Report, and I do not think that I need add any remarks. None of our proposals affect the main principles of the Bill."

The Hon'ble MR. CHITNAVIS said:—"My Lord, instead of recording a silent vote in support of the Bill, I wish to bear testimony to the good work done by the Court of Wards in the Central Provinces. Last year this Council had to consider the question of indebtedness among agriculturists in my Province, and the law of landlord and tenant was amended in several particulars with the object of restricting the right of transfer. It remains to be seen how far this recent legislation as regards landlord and tenant will cure the evils which admittedly exist—speaking of my own Province—where the *Malguzar* system prevails largely. Past experience, however, shows that the only way to save an encumbered estate is to take it under the protection of the Court of Wards. Many an old family of

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Malguzars and Zamindars has to thank Government or the Court of Wards for being saved from complete ruin. In several instances, the tact and conscientious efforts of the local officers charged with the management of the Court of Wards saved some of the largest estates from an expensive litigation. The Bill as now amended in the Select Committee leaves very little to which objection could reasonably be taken, and as I believe that this Bill will facilitate and further the work of the Court of Wards in the Province, I have great pleasure in supporting it."

The motion was put and agreed to.

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

The motion was put and agreed to.

PUNJAB COURTS BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill further to amend the Punjab Courts Act, 1884, be taken into consideration. He said :—" When presenting the Report of the Committee at the last meeting of the Council, I explained the amendments which were proposed by the Committee, and I have nothing further to say now."

The Hon'ble MR. CHATTERJEE said :—" MY LORD, the speech of the Hon'ble Member in charge of the Bill, when presenting the report of the Select Committee, contained a clear exposition of its provisions as finally amended by us. I wish only to offer a few personal observations on the Bill.

" That some amendment of the law of appeal in the Punjab is necessary is practically conceded on all sides. The difference of opinion lies in the form the amendment should take.

" I might here state that I wished to bring forward a proposal, foreshadowed in my note to the Punjab Government, to the effect that the law of further appeal should be retained, if necessary with certain limitations, for land suits alone and the law of second appeal of the Code of Civil Procedure introduced for all other suits. It had the support of one of my learned colleagues, Mr. Justice Robertson, and was based on the consideration that the latter classes of suits did not materially differ from similar suits in other parts of India and that it appeared *prima facie* reasonable that litigants interested in them should be treated on the same footing in all parts of India. But it was pointed out that such a proposal

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involved too great a departure from the scheme of the Bill which had been drawn up in accordance with the recommendations of the Government of the Punjab after consultation with the Chief Court and approved by the Government of India and sanctioned by the Secretary of State for India to be entertained at that stage. It was also mentioned that it was in contemplation to revise and amend the Code of Civil Procedure, the appeal sections of which would be among the first to be taken in hand and that by the time this was done the effects of the working of the present Bill would be known and any defects thus disclosed could be easily remedied in the light of actual experience. For these reasons I have foreborne to press my proposal.

"The introduction of the second appeal of the Code in complete substitution of the law of further appeal in the Punjab appears to be open to objection so far as the land suits are concerned and they form more than three-fourths of the further appeals. This is partially admitted in the memorial of the members of the Chief Court Bar Association, who are competent judges on the subject.

"A historical retrospect of the law of appeal in the Punjab shows that further appeals are a very old institution in the Province. Before the passing of the last Punjab Courts Act, XVII of 1877, not only the highest Court but Commissioners, who represented the present Divisional and Sessions Judges, used to hear them, whether the decisions of the Court below were concurrent or conflicting. By that Act, the right of appeal was somewhat curtailed and further appeals were confined to cases of conflicting judgments only. By section 39 of the Act, the law of the Code of Civil Procedure regarding Second Appeals was introduced into the Punjab, but section 584 was modified by adding a clause which allowed a second appeal 'on the ground of the existence, or non-existence, validity or invalidity of a custom alleged to have the force of law'. This law of second appeal remained in force for seven years until the present Punjab Courts Act was passed in 1884, by which the old further appeal was revived in a modified form in certain classes of cases in which a point of law or custom was involved.

"On abstract grounds there is a great deal to be said in favour of the Court of Appeal being empowered to deal with cases as a whole, namely, to correct errors of fact, as well as of law. But as to decide on facts ordinarily takes up much more time than to decide merely on questions of law, it has been found necessary to curtail the right of appeal to the second Appellate Court, which, both under the Code and the Punjab Courts Act, is the highest Court in

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each Province. For this purpose the Code restricts the second appeal to particular points, namely, questions of law, custom, or irregularity of procedure, while the Punjab Courts Act seeks to attain the same object by an artificial classification of suits and by taking away the right of such appeal in suits under the value of Rs. 1,000 except under certain circumstances.

"I think the peculiarities of the appeal law of the Punjab is largely due to the nature of the substantive law of the Province. That law is, to a great extent, Customary law, which is in a fluid state and the main features of which have been accurately ascertained only in recent years. This law mainly furnishes the rule of decision in land suits in which the peasantry of the Province are most interested. As already stated more than three-fourths of the further appeals to the Chief Court relate to this important class. Until the Customary law is codified—a point on the advisability of which at present I express no opinion—or is superseded by Hindu or Mohamedan Law, which is an improbable contingency, a power of going into the merits of the custom set up must be retained by the Chief Court. The Civil Courts of the Province are among the latest established by the British Government and those of the lower grades are admittedly weak. The Subordinate Courts under present circumstances can hardly be allowed to come to a final and conclusive finding on a point of custom so as to lay down the law for the Province. It was on considerations like these that the amendment of section 584 of the Code of Civil Procedure, already mentioned, was made when Act No. XVII of 1877 was passed; and a similar provision will have to be re-enacted if the second appeal of the Code of Civil Procedure as it stands at present, is ever re-introduced into the Punjab.

"The Bill as finally modified in Select Committee will doubtless considerably reduce the number of further appeals to the Chief Court, probably by about one-half. But the extension given to the power of revision by clause (b) of section 70 will enable the Chief Court to give relief in all land suits, and small causes, and unclassified suits above certain values where the decision is wrong upon an important point of law or custom. Doubtless, this is a new departure in the direction of revision and the new provision will have to be carefully and cautiously though fairly applied. The element of uncertainty as to what will be considered an important point of law or custom cannot be wholly excluded, but on the whole it would seem that the present amendments will practically allow, within certain limits, the benefits of a second appeal like that of the Code of Civil Procedure, where the right of further appeal has been taken away. The admission of an application for revision under clause (b) of section 70 will indeed be a

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matter entirely within the discretion of the Judge, but once admitted it will be dealt with like a second appeal with the additional advantage that the Court will be competent to go into the question of the existence or non-existence of the custom set up. In other words, the Court will act as if the clause added to section 584 of the Code of Civil Procedure by section 39 of the old Punjab Courts Act was restored. Thus, we should not be wrong in saying that by the present Bill some advance has been made in the direction of assimilation of the law of appeal in the Punjab with that of the rest of India.

"In regard to the other points of the Bill which call for remark I have nothing to add to the observations of the Hon'ble Mr. Rivaz. But I may be permitted to urge before Your Excellency and this Hon'ble Council the expediency and necessity of an early revision of the Code of Civil Procedure. It is defective in important particulars. A few of these defects were pointed out in the Select Committee which has framed provisions for remedying two of them. It is also in some respects too technical, probably more so than the procedure law of England, and is so far unsuitable for a country like India and particularly the Punjab where the bulk of litigants are ignorant peasants, a great majority of whom act without legal advice. It was proposed sometime ago to provide a special procedure for suits against agriculturists, but if the Code is properly revised, there will be no necessity for such a measure. When such revision takes place, any defects of the present Bill, disclosed by the actual working of its provisions, may be remedied by further assimilating the law of appeal of the Punjab to that of the Code, if that is considered the best course."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, the Bill, now before Your Excellency's Council, has been well discussed and thoroughly considered by the Select Committee to which it was entrusted. The amendments that have been made in the Bill will, it is hoped, prove useful and valuable in their application. Some people contend that this Bill, when passed into law, will curtail to a large extent the present liberty of appeal to the Chief Court, and thus debar litigants from enjoying the privilege, they have hitherto had, of getting the highest justice within their reach. It is true that this will happen, and a certain class of litigants, who have, from the early days of the British rule in the Punjab, been accustomed to go to higher and higher courts on appeal till their cases are heard by the last court of appeal in the Province, will be greatly dissatisfied with this measure. Even as it is, the losing parties often complain that there is no higher court of justice after the Chief Court in the Punjab. But it must be admitted that the Chief Court,

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even with its present strength, cannot cope with the work that comes to it under the existing system ; and so cases have to lie undecided finally for years. In this way also the parties to a case suffer considerably. Before the British rule in the Punjab legal cases were generally decided either by the Panchayat system or by a Judge of the Court appointed for the administration of justice ; and the decision thus given used to be taken as final. There used to be no courts of appeal in those days, and the people were quite used to the then existing system of law and were satisfied with it. This Bill, as it now stands before us, when passed into law, will not only effectively reduce the number of appeals in the Chief Court by discouraging unreasonable litigation, but will, I think, be also beneficial in saving people from the heavy expenses of court-fees and lawyers' charges. It sometimes happens that before a case is finally decided by the Chief Court, the decree-holder has spent more than the sum for which a decree is given in his favour ; so that he has but the name of the decree to carry with him. Nevertheless, the Select Committee has amended the new section 70 so as to give the Chief Court power to call for records of cases not appealable to it, and to treat the matter of any application which may be admitted on the ground that important questions of law or custom are involved as if it were an appeal. This amendment, it is hoped, will remove, to a certain extent, the general complaint against the Bill.

" Another question which the public raise is whether the efficiency of the present Judicial Officers of subordinate courts in the Punjab—young and immature in experience as most of them are—is such that the people can safely depend upon, and be satisfied with, their judgments—which, in most cases, will be final. This is, no doubt, an important point, and it will, I think, be necessary to improve the subordinate courts, but it is a matter more for the Local Government to consider and remedy than for the Legislature to meddle with. The Local Government can best judge of the capabilities of the Judicial Officers of its Province, and can, at the time of vesting them with judicial powers, bear this point in mind.

" Besides the amendments made by the Select Committee, my Hon'ble friend Mr. Justice Chatterjee and I were of opinion that in land suits the Chief Court should be empowered to admit applications when the value of the suit is not less than *one* hundred rupees. In the Punjab, in such suits, even though they may be of small value, the interest to the parties concerned is very great. In cases of moveable property the decision of the Court affects only the parties directly interested, while in cases of land suits the result is regarded as affecting also the coming generations of the parties concerned. The force of this argument is very

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much increased if we bear in mind the fact that the Punjab is a province of chiefly small peasant proprietors. As, however, the limit of Rs. 250 was, no doubt, fixed after careful consideration, I do not think it necessary to contend this point any further. I hope that in a couple of years' time or so, the Chief Court and the Punjab Government will be able to realize whether the Bill, in its entirety, has proved a useful piece of legislation, or whether some of its provisions call for re-consideration by Your Excellency's Council.

"With these few words, my Lord, I beg to support the motion that the Report of the Select Committee be taken into consideration."

The motion was put and agreed to.

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

The motion was put and agreed to.

ASSAM LABOUR AND EMIGRATION BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam. He said:—"The law on this subject is contained in Act I of 1882 as amended by Act VII of 1893, and in the Bengal Sanitary Act, I of 1889. I may explain at the outset that it is not proposed in the Bill to alter or even to touch, except in the one matter of the minimum statutory wage, which we propose to raise, the labour system constituted by the present Act. This labour system rests on the basis of a penal contract enforceable through the Criminal Courts, and although it is recognized to be exceptional and transitory, and although the Government of India are pledged to revise or put an end to it when the conditions of Assam are assimilated to those of neighbouring provinces, the time has not come to undertake this. The railways now in course of construction should, we hope, very materially modify the conditions under which labour at present finds its way to the tea gardens. The labourer will be brought nearer his home, will be more disposed to spontaneously proceed to Assam in search of work, and will be better able to return home if the work or pay fails to suit him. We shall be then under less obligation to assist the planter to retain the labour which at present costs him much to import, and under less obligation to provide by rules for the well-being of the labourer. Meanwhile we have abundant testimony that the labour conditions of the present Act are working satisfactorily in Assam. We consider that the minimum wages prescribed by the Act are now too low, regard being had to the rise in prices and to the higher rates which labour commands outside

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Assam. But, with this exception, we are satisfied that the protection afforded by the Act to the labourer is sufficient, and will, in all probability, prove sufficient during the remaining term of existence of the present system.

“Our proposed amendments of the present Act are, therefore, confined to its recruitment provisions. There is overwhelming evidence that under the guise of ‘free emigration’ from the districts which supply labour to Assam, an organized system of professional recruiting has sprung up, which is not distinguishable from the professional recruiting recognized and licensed and controlled by the Act, save that it is entirely free from control and that it resorts with impunity to fraud, kidnapping, abduction of women, and other malpractices. The Act provides in a very minute and careful manner for the licensing of contractors and recruiters and the granting of certificates to garden-sardars deputed from the gardens to recruit. It requires that these agents shall bring the labourers they recruit before a Registering-officer in the district of recruitment, that the labour-contracts following on registration shall be similarly executed, and that the labourers after contract shall be conveyed under proper safeguards and official cognizance to Assam. But having provided this elaborate machinery for the protection of the labourer and for controlling the recruiter in the recruiting districts, the Act was so worded as to authorize any other unlicensed and uncontrolled form of recruiting which the ingenuity of labour-purveyors could devise. The unlicensed recruiter, instead of registering and putting his recruits under labour-contract in Bengal, carried them off under no supervision to Assam, and there placed them under contract.

“This is what is called the ‘free emigration’ system, and it is this system that has given rise to abuses which have necessitated the amendment of the law now proposed. The genuine ‘free’ emigrant, who pays his own way to Assam and goes there as a free agent to look for work, is obviously a man to be encouraged. But the genuine ‘free’ emigrant is very seldom met with, and the bulk of the labourers who proceed to Assam outside the precautions and safeguards of the Act are recruited and conveyed there by unlicensed recruiters and contractors or by garden-sardars, with the express object of being put under penal contract on their arrival in the labour-districts. When the labour-districts are reached, the emigrant is far from his home and amid unfamiliar surroundings, and he has practically no option but to accept the contract which he is called upon to sign. The only powers of control that Government has over ‘free’ emigrants are those conferred by a Bengal Council Act, I of 1889, which enables the Bengal Government to prescribe routes by which the emigrants are to travel and to lay down rules for the sanitary inspection and supervision over depôts and

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rest-houses where they may stay on their way to Assam, but that Act is not in force in the Central Provinces or elsewhere outside of Lower Bengal.

"It may be asked why, after having provided an elaborate procedure for recruiting and engaging emigrants under official supervision at or near their homes, and for transmitting them after execution of the contract to the labour-districts, the Act of 1882 allowed or even invited recruitment to be carried on outside these provisions. The answer is that it was hoped that through the stage of assisted emigration the goal of genuinely free emigration would be reached. This hope has not been realized.

"When Sir Philip Hutchins introduced in this Council in January, 1893, the Bill which subsequently became Act VII of that year, he stated that the Bengal Government had brought to notice the prevalence of abuses and malpractices committed by professional recruiters under the "free system"—working without a license and outside of the Act, I of 1882. He drew attention to the unsatisfactory conditions as to sanitation under which the emigrants travelled from their homes to the labour-districts, and he explained that the Government of India proposed to combat these evils by (1) energetic executive action in the recruiting districts; by (2) constant and vigorous precautions along the line of march to Assam; by (3) strengthening the inspection system in the Assam tea gardens; and by (4) providing more complete remedies for the cancelment of contracts and repatriation of emigrants whenever they were found to have been taken to Assam wrongfully. Provisions designed to give effect to these measures were accordingly included in the Bill.

"Sir Steuart Bayley, when Lieutenant-Governor of Bengal, had proposed, with a view to checking the abuses complained of before 1893, that all recruiting except by licensed recruiters should be disallowed, that all recruits should be registered and their contracts executed in the districts of recruitment, and that no labourer should be permitted to enter into a penal contract in Assam until he had been proved to have resided two years there. The Government of India thought, at that time, that as few complaints of crime ended in conviction, there could not be any serious amount of crime connected with recruitment in the recruiting districts; that official interference which was not absolutely necessary would make emigration unpopular and be a retrograde step tending to discourage free emigration and retarding the day when all special legislation could be abandoned, and they considered that the amendments of the law embodied in the Bill of 1893, combined with the vigorous enforcement of the ordinary criminal law

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and of sanitary precautions for the protection of the emigrants *en route*, would enable Local Governments to put down the malpractices then complained of in the recruiting districts.

"While the Bill of 1893 was under consideration, Sir Charles Elliott succeeded Sir Steuart Bayley as Lieutenant-Governor of Bengal.

"He hoped, without having recourse generally to the system of initial registration, recommended by his predecessor (Sir Steuart Bayley), to be able to suppress the malpractices of 'free' recruiters and agents, with the aid of the powers conferred by the Act of 1893, coupled with a revision of the rules under the Bengal Act, I of 1889, and with other executive measures which he proposed to undertake.

"Sir Charles Elliott obtained and reviewed periodical returns showing the number of offences reported in connection with emigration from Bengal, in which complaints by and against emigrants were distinguished. He drew up revised rules under Act I of 1889, under which he proposed to bring professional recruiters under control by licensing them; but these rules were declared by the law officers to be *ultra vires*. He had previously, as Chief Commissioner of Assam, opposed the Bengal Government proposals to put a stop to the so-called 'free emigration' system, but having acquired experience of the working of that system in the recruiting districts, and his rules having been declared to be *ultra vires*, he keenly felt the abuses that had sprung round the system of 'free emigration'. The term 'free emigration' he wrote was used in a non-natural sense; it depended upon a machinery of recruiters, sardars, contractors and local agents, who, however carefully they might be watched, could not be controlled by the executive. He acknowledged that there were innumerable complaints of fraud and violence connected with the system, and, at the request of the Bengal Chamber of Commerce, appointed a Commission to enquire into the whole subject. He trusted that the Commission would be able to arrange for the formation of a Central Recruiting Agency in Calcutta, which would undertake the entire business of supplying labour to Assam, at a reduced cost and without the abuses that attended the existing system.

"The Commission consisted of Mr. Williams, C.S., who had served himself in Assam for many years and afterwards as Collector and Commissioner in the recruiting districts of Bengal; Dr. Comins, formerly Superintendent of Emigration and Protector of Emigrants in Bengal; Messrs. Begg and Gladstone, representatives of the Indian Tea Association; and a native gentleman, Kumar Dakhineswar Malia. From its constitution it is apparent that the Commission was in

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no way biased against the so called 'free' emigration system or in favour of the system of initial registration of emigrants and verification of contracts in the recruiting districts; yet, after visiting the recruiting districts, they unanimously reported that the formation of a Central Agency was impracticable, that malpractices had increased since the passing of the Act of 1893, that without alteration of the law it was impossible for the executive Government to stop them, and that the cost of importing labour to Assam was steadily increasing owing to the abuses arising from the competition of unlicensed professional recruiters. The evidence adduced in the Commission's and local officers' reports in support of the Commission's conclusions on these points appears to the Government of India to be full and conclusive. The Commission made certain recommendations for the adoption of measures to check abuses and the Government of Bengal (Sir Alexander Mackenzie) accepted generally their recommendations and commended them for adoption to the Government of India.

"The Commission's report, with the Bengal Government's comments on it, was circulated for criticism to all the Local Governments and Administrations concerned, with the result that they all agree substantially to the amendments in the law which we now propose.

"These amendments are to the following effect :—

- (1) We empower the Local Government to prohibit all persons from recruiting, or engaging, or assisting any native of India to emigrate from any specified part of its territories to any or all the labour-districts otherwise than in accordance with the provisions of the Act. When such a notification issues it will completely stop the present unlicensed and uncontrolled system of 'free' recruiting, by making it punishable as a criminal offence.
- (2) Having brought the present unlicensed contractors and recruiters under license and control, we further require that they shall register the emigrant in the district in which he has been actually recruited and before a responsible officer, and that they shall subsequently enter into the labour-contract with the registered emigrant, if not in the actual district of recruitment, at least at some central place near such district. We do away with the special procedure under which a labour-contract for any district in the Assam Valley can at present be entered into by a so-called 'free-emigrant' at Dhubri.

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- (3) We provide for an interval of at least three days between registration of intending emigrants and execution of contracts by them.
- (4) We make additional provisions for repatriating labourers found to have been enticed away from their homes by fraud, or to have been forced away by violence, or rejected by the Registering-officer.
- (5) We prohibit the execution of a penal contract by a woman without the consent of her husband or lawful guardian.
- (6) We provide that the medical examination of labourers intending to proceed to the labour-districts on the point of physical fitness to labour, be made compulsory in the recruiting districts in the case of contractors' coolies, and optional in the case of sardars' recruits.
- (7) We provide that when a labourer is convicted of desertion he shall not be liable to be detained or to be returned to the garden he left, for any period beyond the last day of the contract he broke by desertion.
- (8) We raise the minimum contract wage prescribed by the present law from Rs. 5 in the case of a man and Rs. 4 of a woman to Rs. 6 and 5 respectively.
- (9) We make minor alterations as to the amounts of license-fees payable by contractors, sub-contractors and recruiters.
- (10) In addition to these amendments of the Assam Labour and Emigration Act we are separately proposing that the Bengal Act, I of 1889, relative to sanitary control over arrangements for free emigrants *en route* to Assam, be converted into an Act of the Government of India and be made extendible to the Central and North-Western Provinces and any other Province from which labourers may be recruited in future, and that its scope be enlarged so as to give Local Governments power to frame rules to give their officers definite powers of entry and inspection of depôts and rest-houses for other than sanitary purposes.

" There are certain exceptions under amendments (1) and (2) with regard to the licensing of recruiters and the registration of emigrants and execution of contracts by them in the recruiting districts which I shall now specify—

- (a) There is a certain amount of really spontaneous or free emigration to the Surma Valley. This it is not proposed to interfere with under

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the Bill. The Bill does not empower a Local Government to prohibit persons from going without assistance and of their own accord to any part of Assam. The Bill further leaves it at the discretion of the Local Government to prohibit or not to prohibit 'assisted' emigration outside the Act. It is conceivable, for instance, that 'assisted' emigration to the Surma Valley has not the objectionable features which attend 'assisted' emigration to the Brahmaputra Valley.

- (b) Recruitment carried on by uncertificated garden-sardars has not been abused and it is desirable to encourage it. These sardars are servants deputed by individual planters from their gardens in Assam to the recruiting districts to bring up coolies to the planter's particular garden. It is proposed to subject them to a certain amount of control, but their coolies need not be brought before a Registering-officer to be registered, nor need contracts between the planters and coolies recruited by them be executed in or near the recruiting districts. The concessions made to these uncertificated garden-sardars can be withdrawn at any time if they are abused.
- (c) It is proposed to make similar concessions to approved associations or companies, such as the proposed Central Recruiting Agency, should it ever be formed. There is no immediate prospect, so far as the Government of India are at present aware, of the formation of a central agency which would undertake the whole business of recruiting labour for Assam, because all the planters are not willing to combine and join such an agency, and unless all do agree to join, it would not be right to give any agency a monopoly, thus compelling the dissentients to join it. But even if such an agency were formed, the necessity of the proposed amendments in the law would not be thereby obviated. To give any agency a monopoly in recruiting it is necessary to have the legal power of preventing recruiting by others, which power does not exist under the present law. Should the proposed central agency be formed later on and should it be found desirable to give it a monopoly in recruiting, that object can be effected under the Bill by giving licenses to its recruiters and to no others; while should any number of planters short of the total number combine to form an agency among themselves, their sardars can be given

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the same concessions as uncertificated garden-sardars under the Bill, leaving the others to make their own arrangements, provided they are consistent with the law.

"It is unnecessary that I should at this stage enter into an elaborate discussion on, or justification of, the various amendments which I have described. It is sufficient for me to say that most of them are on the lines recommended by the Labour Commission, and that they have all been accepted as necessary and adequate to put down abuses in the recruiting districts by all the Local Governments concerned. The Indian Tea Association has also expressed its approval of the principal amendments in the law now proposed.

"I return now to the one matter in respect of which we propose to modify the labour conditions of the present Act. We propose to raise the minimum contract wage from Rs. 5 to 6 a month in the case of a man, and from Rs. 4 to Rs. 5 a month in the case of a woman. As to this proposal I may observe that the Bengal Labour Commission, on which the tea interest was represented by Messrs. Begg and Gladstone, acknowledged, in paragraph 8i of their report, that if Government would insist on the reduction of the cost of importing labour to Assam, which reduction they anticipated would be one of the results of adopting their recommendations, it would be fairly entitled to demand some increase in the pay of the coolies. The proposal to raise the minimum wage has been pressed upon us by the Local Governments of Bengal and the North-Western Provinces and by the Chief Commissioners of the Central Provinces and Assam. The present statutory wage was fixed more than 34 years ago, when the ordinary wages of labour in the recruiting districts were lower and the demand for labourers in Assam less than it is now, and it is clear therefore that a wage which was then sufficient to induce emigrants to proceed voluntarily to Assam is inadequate now. It has been argued in some quarters that inasmuch as the labourers can, by working overtime, earn more than the contract wage, it is unnecessary to raise it; but this argument ignores the fact that labourers could also earn extra wages by working overtime in 1865, when the minimum wage was fixed, as well as now. The amendments relating to the initial registration of intending emigrants and the verification of contracts to the recruiting districts, to the licensing of all professional recruiters, to the medical examination of labourers in the recruiting districts, to the repatriation of labourers and their dependents and to the prohibition of execution of contracts by females without consent of their husbands or guardians, have all been accepted by the Local Governments concerned and are explained in the papers which will be circulated and I need not occupy the time of the Council in considering them now.

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"In conclusion I may repeat that it has always been the desire and policy of the Government of India to dispense with all special legislation relating to recruitment of labour for Assam. We still adhere to that policy. We hope that some time after communication to Assam by rail is opened up, by completion of the Assam-Bengal railway, it may be possible to do away altogether with the system of penal contracts, or at least to make substantial changes in the Assam labour system in the direction of abolishing such contracts. For the present it is necessary to maintain the system, and while it is maintained, we trust that the changes in the law now proposed will have the effect of stopping abuses in recruitment while cheapening the cost of importing labour to the tea districts. We have thought it desirable to consolidate as well as to amend the labour law, so as to make it more easily intelligible, and, as I have already mentioned, to make the Bengal Sanitary Act, I of 1889, extendible to other recruiting provinces.

"This Bill and the other Bill just referred to, which I shall presently ask leave to introduce, will now be circulated for criticism, and it is proposed to pass them during the coming session in Calcutta."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Fort St. George Gazette, the Calcutta Gazette, the North-Western Provinces and Oudh Government Gazette, the Central Provinces Gazette and the Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

ASSAM EMIGRANTS' HEALTH BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to make better provision for the health, supervision and control of Emigrants proceeding to or from the labour-districts of Assam. He said :—"This Bill is a corollary to the amendments which we propose to make in the recruitment provisions of the Assam Labour and Emigration Act, and, in introducing the Bill for this latter object, I have explained that we propose to supplement its revised provisions by enacting as a general Act the Bengal Inland Emigrants' Health Act. The Local Governments of the several provinces in which recruiting for Assam is

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carried on will thus have the same means of guarding the health of recruits in transit to Assam as the Bengal Government at present have. It is proved by experience that such powers are required."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 20th October, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 13th October, 1899.