

Thursday, July 24, 1873

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

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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 Simla on Thursday, the 24th July 1873.

PRESENT :

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

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble B. H. Ellis.

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.

CENTRAL PROVINCES MUNICIPAL BILL.

The Hon'ble MR. HOBHOUSE moved that the Report of the Select Committee on the Bill to provide for the appointment of Municipal Committees in the Central Provinces, be taken into consideration. It would be in the recollection of the Council what the exact position of the Central Provinces was with respect to Municipal Committees. He had explained on a former occasion that an Act (XV of 1867) was passed for the Panjâb, and that under executive powers that Act was extended to the Central Provinces, where it had now been at work for about seven years in some places, and in other places for a less period of time according to the date of extension. The Council would also recollect that we had lately passed for the Panjâb a new Act (IV of 1873), containing a few alterations of the first Act, and being of a permanent instead of a temporary character as the former measure was. Instead of doing as we had done before, that was, giving executive powers to extend the Panjâb Act to such places as the Government thought fit, we now proposed to pass a separate Act for the Central Provinces exactly on the model of the Panjâb Act.

The general scheme of the Act was well known. It empowered the Local Government, after certain precautions, to extend the Act to such places as they thought fit; then to appoint Municipal Committees who would give notice what taxes they intended to impose, what persons they intended to tax, and powers

were conferred on the Committee, subject to the sanction of the Local Government, and to rules framed by, and in some cases, subject to the sanction of the Supreme Government, to impose the taxes.

That was the whole scheme of the Act. Slight alterations in detail had been made since the Bill was introduced, so slight that MR. HOBHOUSE did not think it necessary to draw the attention of the Council to them. The Report of the Select Committee merely pointed out the three or four instances in which the Bill had been altered.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

OBSOLETE ENACTMENTS BILL.

The Hon'ble MR. HOBHOUSE also presented the Final Report of the Select Committee on the Bill to repeal certain obsolete enactments.

BURMA TIMBER BILL.

The Hon'ble MR. HOBHOUSE also presented the Final Report of the Select Committee on the Bill to amend the law relating to Timber floated down the rivers of British Burma.

N. W. P. AND OUDH MUNICIPAL BILL.

The Hon'ble MR. HOBHOUSE also presented the Report of the Select Committee on the Bill to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes.

HIGH COURTS' CRIMINAL PROCEDURE BILL.

The Hon'ble MR. HOBHOUSE also introduced the Bill to regulate the Procedure of the High Courts in the exercise of their Original Criminal Jurisdiction and for other purposes, and moved that it be referred to a Select Committee with instructions to report in four months. It was necessary that he should explain to the Council the position and nature of this Bill. Leave had been given to introduce it, on the motion of his predecessor, Mr. Stephen, in the month of April of last year, and the reason that was assigned in asking leave was that the Com-

mittee which sat on the Criminal Procedure Code recommended that the procedure in the High Courts in the exercise of their Original Criminal Jurisdiction should be assimilated, so far as was reasonably practicable and possible, to the Criminal Procedure which was thought good for the Mofussil. That could not be done in the Criminal Procedure Code itself, because it raised questions of an entirely different kind from those which the Committee had been considering. They would have had to consult the High Courts and Local Governments upon those questions, a great deal of time would have been taken up, and it would have been impossible to have passed the Bill before Mr. Stephen left India.

Mr. Stephen therefore explained that to the Council and asked for leave to introduce a separate Bill for the purpose.

There was another purpose contemplated by the measure which the title did not disclose, except by the use of the words "for other purposes," and that was to apply a large portion of the Criminal Procedure Code to the Police Magistrates of the Presidency Towns. At present both they and the High Courts were regulated to a great extent by the English procedure. Some Indian enactments had been passed for the purpose of amending that, but the procedure was at present a mixture of that which had been brought from England and that provided from time to time by this Legislature. Previously to Mr. Stephen obtaining the leave of the Council to introduce that Bill, the Government of Bengal had moved the Government of India to enquire of the Local Governments whether it was proper to transfer to the High Courts the general scheme of Criminal Procedure, and also whether it was proper to have more supervision than at present existed over the Police Magistrates of the Presidency Towns, and whether the Police Courts of those towns should also have the Criminal Procedure of the country extended to them. Answers had come in to those references to the Local Governments, and Mr. HOBHOUSE could not explain the objects of the present Bill better than by showing to the Council what the effect of those answers was. The High Court of Calcutta said that—

"in the opinion of the Judges, as far as regards procedure in criminal trials, and the preliminary investigation by Magistrates, the provisions of the Code might, with certain exceptions, be introduced into the Presidency Towns, but that this should be effected by a separate Act; the principal exception above adverted to being the provisions of the Code respecting trials by a jury."

He might mention that trial by jury in the Presidency Towns, by the High Courts, was a subject, which was provided for by a separate Act (Act XIII of

1865). The High Courts of Madras answered pretty much in the same way. They said :—

“ The Court is of opinion that the procedure of the High Court in the exercise of its Original Criminal Jurisdiction, as well as the procedure of the Magistrates in preliminary enquiries, may also be regulated by the Code with some modifications. The provisions of Act XXIV of 1866 may be referred to.”

Act XXIV of 1866 introduced some alterations of procedure in the High Court of the North-Western Provinces.

They added that—

“ the Court think that the English rule concerning the unanimity of the Jury, whatever may be its merits or recommendations elsewhere, should not be retained.”

The High Court of Bombay said :—

“ The Judges observe that for one question of form or procedure, or objection of that nature, which arises in criminal cases in Bombay, either in the Police Office or in the High Court at its Original side, at least one hundred such questions have arisen upon the Code of Criminal Procedure of 1861, and the Acts amending it ; and although there may be, in that Code and in the projected new version of it, several provisions which may be advantageously introduced into the Presidency Towns, yet to introduce the proposed new Code *en masse* into the Presidency Towns would be questionable policy. The Code of Criminal Procedure of 1861 was, no doubt, a considerable improvement upon the pre-existing state of law in the Mofussil ; but the law of procedure (written and unwritten) in criminal cases in the Presidency Towns was much better than that in the Mofussil, and has, since the Code of 1861 was passed for the Mofussil, been much improved by legislation, and by the steady mode in which the Courts have discountenanced formal objections. It certainly has worked much more easily than the Code of 1861, and, as already remarked, has not given birth to one hundredth part of the doubts and difficulties which the Mofussil tribunals and the Appellate side of the High Court have the incessant duty of endeavouring to solve upon the Code of Criminal Procedure of 1861 and its amending Acts.”

The Council, therefore, would see that the three High Courts all agreed in thinking that part of the Criminal Procedure which had been established for the Mofussil should be extended to the High Courts. The Court of Bombay recommended great caution ; the other Courts said that there ought to be some modifications which they did not indicate, excepting that the High Court of Calcutta was of opinion that the provisions with respect to Juries applicable to the Mofussil should not be extended to Calcutta.

From Madras we had also an extremely valuable opinion of the Police Magistrates, who had applied themselves to the question—What were the precise clauses of the Criminal Procedure Code which it would be useful to extend to themselves ?

They had also applied themselves to the question whether there was required a greater amount of supervision by the Police Courts, meaning by supervision (as Mr. HOORHOUSE understood), some machinery for appealing from their decisions. What they said was this :—

“ We consider that there are many provisions of that Code which may, with great advantage, be so made applicable ; but there are also several sections which it would be impossible to carry out in their integrity without an enormously increased charge to the State.

“ There are two Police Courts for this Presidency Town. Each Court disposes daily of about forty cases, besides thirty preliminary applications for process ; about sixty witnesses and complainants are daily examined. Upwards of 37,000 processes are issued annually in addition to formal convictions, orders, &c.

“ The Police Courts have been in existence, in some form or other, upwards of fifty years. Their procedure, however antiquated, is exceedingly simple, and is, in fact, the procedure with which every European British subject—and we may say every British subject within our jurisdiction—is familiar. It is the procedure still in force in the Police Courts of England, and, we think we are justified in saying, one that has hitherto given satisfaction to all classes.

“ We would strongly deprecate any interference with the present mode of summary trial and especially with the manner in which evidence is recorded in summary cases. It would be an intolerable hardship on the people of a busy trading town, such as Madras, if they were to be compelled to hang about the Courts whilst their cases dragged through the slow length of a trial conducted, as in the Mofussil, with the prospect of a further expenditure of time and money attending an appeal. Every endeavour is made to avoid putting parties and their witnesses to the inconvenience of attending the Courts more than one day, the Magistrates frequently sitting till a very late hour to obviate the necessity of frequent adjournments.”

Then they added in a subsequent paragraph of the same letter :—

“ Subsequent to the receipt of the Government Order, the experiment was tried at the Rayapettai Police Court of taking and recording complaints in the manner prescribed by Section 94 of the Bill, and it was found that it would occupy one Magistrate even beyond the usual office hours taking complaints alone.”

On the subject of appeal they said :—

“ Up to the present time, no appeal has been allowed from the judgment of Police Magistrates ; their proceedings are closely watched both by the public, the Press, and professional gentlemen who are constantly employed in Police cases. We submit that to allow appeals in the Presidency Towns would be to add to the uncertainty of justice ; would flood the High Court with increased work of a petty nature in hearing appeals, examining calendars, &c., and would paralyze the action of the Police Courts. Probably, two days in the week would be the utmost time that could be given to public sittings ; the rest of the week would be occupied by the Magistrates and their Clerks in preparing written judgments, calendars and miscellaneous returns. Already do our Courts furnish monthly statistics embracing some 600 columns, each column two feet long, besides an annual statement submitted to the High

Court. Notwithstanding all precautions, the Small Cause and Police Courts are infested by unscrupulous touters, whose business it is to foster litigation, and who live on the fears, hopes and petty malice of ignorant people. It would open out to these people a fresh field of practice in exciting delusive hopes of the chance of a successful appeal."

The Council would see, therefore, that in the opinion of these gentlemen the summary powers of the Police Courts ought not to be seriously interfered with, if at all, and there ought not to be any appeal ordinarily speaking, at all events, from the decisions of the Police Magistrates. They added a schedule setting out the particular clauses of the Criminal Procedure Bill then before the Council, which they thought would apply to themselves. The High Court of Bombay entirely agreed with the Police Magistrates of Madras in their views respecting appeal, and thought that there was no necessity for any greater supervision than was now exercised over those Courts. They said :—

"There has not been any demand here for a greater degree of supervision over Magistrates and the inferior Courts in this island than is afforded by *certiorari* and *mandamus*; and it may be much doubted whether there is any necessity for it where there is an independent and intelligent Press, and whether greater facilities in revising the proceedings of Magistrates, &c., would not, in a place the inhabitants of which are already much more than sufficiently disposed to worry each other with criminal litigation, be far more of an evil than of a boon."

Those were the opinions we had received, and we had framed the draft Bill very much in accordance with them. The present Bill was, in the first place, a consolidation of the nine Acts and the four Statutes which existed on the subject of Criminal Procedure in the Presidency Towns. The important parts of it were in Chapters V and VII. Chapter V proceeded upon the principle of applying to the High Court the provisions of the Code of Criminal Procedure, excepting so far as the present Bill displaced them. This Bill followed the recommendation of the High Court of Calcutta in preserving the present provisions with respect to juries in Presidency Towns, which were different from those contained in the Criminal Procedure Code.

We had no other hint from the High Courts as to what were the modifications they desired, and we had simply taken the matter as it stood; we had preserved the differences which now existed in the Indian Statute-law between the Presidency Towns and the Mofussils; and we had merged the differences which took their origin from the remnants of the old English practice which still prevailed in the High Courts. Of course we should hope that the High Courts would turn their attention to the subject when they got the Bill, and give us exact information as to the points in which they were of opinion that there ought to be any further variance or any further assimilation between the Code of Criminal Procedure in the Mofussil and the Code of Criminal Procedure in the High Courts on their original sides.

Chapter VII dealt with Police Magistrates in Presidency Towns, and we had followed exactly the recommendation of the Madras Magistrates, of course making the requisite alterations which the change of the Bill before it left the hands of the Legislative Council necessitated. This was clearly one of those subjects on which it was exceedingly difficult to form any opinion, excepting on such information as could be obtained from those who had local and special knowledge of the subject. It was, as MR. HOBHOUSE had explained to the Council on another occasion, one of those cases in which the legislator reached the limit of his own knowledge, and was obliged to depend entirely upon the opinions of experts who had studied the case. At present, there was no difference of opinion upon the subject, but we should doubtless obtain further opinions when the Bill had been published. If, then, we found differences, we must study and decide them as best we might; but if we found that the Police Magistrates of the various towns, and the High Courts, substantially agreed as to the provisions of the Code which ought to be applied to them, then, MR. HOBHOUSE thought, we might proceed with perfect safety and confidence in embodying those provisions in an Act.

The Motion was put and agreed to.

INSANE OFFICERS' EFFECTS BILL.

Major-General the Hon'ble SIR H. W. NORMAN moved for leave to introduce a Bill to provide for the security and application of the effects of officers and soldiers becoming insane on service, but not removed, put on half-pay, or discharged.

He explained that it had become necessary to introduce a Bill of this kind in consequence of the omission in the Regimental Debts' Act of 1863 to provide for the charge of the estates and effects of officers and soldiers who became insane, unless they were removed from the service, put on half-pay, or discharged. On an officer or soldier becoming insane in India it was not usual to discharge him, or put him on half-pay. The usual course was to send him either to a Lunatic Asylum for treatment, or to England. In the meanwhile there was no authority under the Regimental Debts' Act for any one to take charge of the effects of the insane person, to pay his debts and any necessary expenses that might be incurred. In certain cases, Committees of Adjustment had done this, but there was no legal authority to justify them, nor had the Military Secretary to Government, or the Administrator General, any authority to interfere in such cases; and it was certain that on one occasion a civil authority, on being applied to, declined to take charge of the effects of the insane person, or to interfere in the matter. Under these

circumstances, it was desirable to make legal the course which was thought most convenient; and the Bill, which GENERAL NORMAN proposed to introduce, would, he believed, meet the case. Amongst other provisions the measure would contain a provision similar to that contained in the Regimental Debts' Act of 1863, that where any person was entitled to represent the interests of the insane person, or where there was a wife, son, or near relative, who might pay all debts and expenses, the Committee of Adjustment would be relieved from all further interference with the property.

The Motion was put and agreed to.

PRINCE OF ARCOT'S PRIVILEGES BILL.

The Hon'ble Mr. HOBHOUSE moved for leave to introduce a Bill to continue certain privileges and immunities now enjoyed by Prince Azim Jah Bahadur, as Prince of Arcot, to his sons on succeeding to the title.

He said that the circumstances under which it became necessary to introduce this Bill were these. The Members of Council knew better than he the history of the Carnatic family and their present positions as pensioners of the State. When the last Nawab of the Carnatic died, which he thought was in the year 1857, the title was dropped, and the head of the family received instead the title of the Prince of Arcot. At the same time an Act of this Council (XXXVII of 1858) was passed, by which certain persons, whose names were specified in a schedule of the Act, were exempted from all civil and criminal process, except with the consent of Government. One of these persons was the present Prince of Arcot, Prince Azim Jah, and the rest of them were certain ladies of the late Nawab's family; but the younger generation, the sons of Azim Jah, were not comprised in the schedule. In the year 1867 there was some discussion respecting the position of this family. An arrangement was then made for paying the debts of the Prince; and at that time a communication was made to him to the effect that he would enjoy, for the remainder of his life, exemption from all civil and criminal process, but that upon his death the exemption would be withdrawn. With reference to this, Lord Napier wrote to the Prince in January of that year:—

“The exemption from civil and criminal process guaranteed to Your Highness by Act XXXVII of 1858 will be continued to you during your life. The course to be taken in this respect with reference to your successors in the title, will be left for future decision.”

To that the Prince replied, after repeating the words of Lord Napier's letter:—“Of the foregoing proposals and the conditions attached thereto, I hereby signify my acceptance to Your Lordship.” In the course of last year

the Prince's health began to fail, and he was desirous that some further arrangement should be made. He wrote to the Madras Government thus :—

“ From the years 1837 to 1857, my sons, daughters, and wives, in consideration of their high position in the Carnatic family, were exempted from civil and criminal process, and after the year 1857 this privilege was continued to me and to all other members of my family, under Act XXXVII of 1858, excepting my four sons. It now remains for Your Excellency to arrange in respect to my immediate successors, who hold a most high and important position in respect to the title and honours of the family, a title and honour which were conferred on me and my family by Your Excellency's own hands. I have myself brought this matter to Your Excellency's notice, as I consider it to be one most necessarily and importantly connected in securing the honour and dignity of my successors.”

The position of the title was this, that Prince Azim Jah was Prince of Arcot for his life, and, after his death, the title was to go in remainder to his four sons in the order of their age ; and, after the death of the four sons, any one of the grandsons whom the Government might select was to succeed to the title of the Prince of Arcot. The property at present devoted to the family amounted to three lakhs of rupees a year, and of these three lakhs which the family were now enjoying, it was stipulated that a lakh and a half should be enjoyed by them in perpetuity ; and of this, half a lakh of rupees and other advantages were annexed to the title so long as it remained. That, therefore, was the state of the family with respect to their dignity and the property which was attached to that dignity as an inalienable appanage.

The Madras Government took the whole matter into consideration, and recommended that a Bill should be introduced for the purpose of exempting the sons of Azim Jah as they succeeded to the title, not from criminal process which the present reigning Prince was exempted from, but from civil process, in the same way as their ancestors were exempted. They conceived that the time had arrived when this family, dignified as it may be, should, if the members of it committed a crime, be subject to the ordinary criminal law of the country ; they conceived that the time had not arrived, that the members of the family had not become sufficiently assimilated to the ordinary society of the country, that they ought to be left to the ordinary law. They had, therefore, recommended that a Bill should be introduced to extend certain privileges and immunities now enjoyed by Prince Azim Jah to the next generation. When MR. HOBHOUSE had the honour of introducing that Bill to the Council, he would explain more exactly the details of what was proposed to be done.

The Motion was put and agreed to.

MERCHANT SHIPPING ACT AMENDMENT BILL.

The Hon'ble Mr. HOBHOUSE also moved for leave to introduce a Bill for the further amendment of Act No. I of 1859 (*for the amendment of the law relating to Merchant Seamen*).

He said that this was a matter which was connected with the general subject of merchant shipping, and it was probably known to the Members of the Council that the law of Merchant Shipping had been under review in this country, and that it was intended some time ago to introduce a measure amending and consolidating the existing Acts. That, however, was stopped by the Secretary of State, who thought that as the whole subject was under consideration in England, where a most elaborate Bill had been knocking at the doors of the House of Commons for three or four Sessions, and inasmuch as the questions of Shipping in India and in England were, to a great extent, the same, it was better that we should postpone the alteration of our law in India until we saw what was done in England. Therefore the matter had been hung up; but there was one point on which the mercantile community had found considerable inconvenience. In cases of disaster at sea it was provided by the present Act that the Government might appoint two persons to enquire into the cause. Those two persons consisted of a Magistrate, and the other might be a person conversant with nautical affairs. When this committee or tribunal had instituted the necessary enquiry it might make a report, and upon that report certain consequences might follow. Now, it had been found that this tribunal was too weak for the required purpose, and we had the Chambers of Commerce of the three Presidency Towns, backed by the Local Governments, who informed us that they desired to have a tribunal consisting of more than two persons, some recommending that there should be a merchant on it. They obviously wished to have at least two persons who were non-official, and most of them desired to have somebody who was connected with mercantile as well as with nautical affairs. They urged that many of these questions turned upon matters of mercantile usage, and upon the practice prevailing between men of business. A man might be an excellent sailor, or an excellent Magistrate, and not be informed on these matters; and both from Madras and Bombay we were referred to specific cases in which it was the opinion of the mercantile community that justice was not done upon enquiries, under Act I of 1859, because the tribunal did not comprise persons with the requisite knowledge. For that reason then, we proposed to introduce a Bill dealing with this particular point. We had communicated with the Secretary of State, and had received an answer from him to the effect that, notwithstanding the abovementioned prohibition to proceed with a general Act, he thought it desirable that we should proceed with the measure now proposed.

We proposed, at the same time, to relieve the law from certain difficulties which had been found respecting the proceedings upon the report when made and the powers of Magistrates, pending the enquiry, to detain a ship, and to take persons out of the ship for the purpose of giving evidence. Those were the particular objects of the Bill which Mr. HOBHOUSE begged leave to introduce.

The Motion was put and agreed to.

NATIVE PASSENGER SHIPS' CONSOLIDATION BILL.

The Hon'ble Mr. HOBHOUSE also moved for leave to introduce a Bill to consolidate and amend the Law relating to Native Passenger Ships and Coasting Steamers.

He said that the occasion which led to the necessity of introducing a Bill on this subject, was an application by the British Indian Steam Navigation Company to be relieved of certain restrictions which were placed upon them by the existing law. The Council had legislated from time to time upon the subject of Passenger Ships, the earliest Act being No. XXV of 1859, which dealt with the subject of Passenger Ships plying in the Bay of Bengal, but it went no further than that. Then came Act XII of 1870, and that, on the face of it, dealt with Passenger Ships generally; but if we came to look at the definition of "Passenger Ship," as contained in that Act, we would find that it was defined to be only a ship that plied to the westward, that was, to the Persian Gulf, the Red Sea, &c. That Act prescribed many minute details controlling the numbers of passengers, the quantity and quality of provisions, the capacity of vessels and other such matters. It also dealt with a class of vessels which it called "Coasting Steamers," and it provided that those vessels should sail under license, and certain rules, of a less imperative character than those applying to Passenger Ships, were made as to the amount of passengers they should carry, and such like matters. Last year, Act XII of 1872 was passed, and that altered the definition of the term "Passenger Ship." It relieved the definition of the condition that the ship must be plying westward, and made the term apply to all ships carrying more than thirty passengers. It had now been found that, notwithstanding the exceptions with respect to Coasting Steamers, some of the most excellent ships which took passengers at all were exceedingly hampered by the regulations; and the British Indian Steam Navigation Company had come forward to state that they were subject not only to needlessly minute supervision, but to rules which hampered them and drove passengers into very inferior Native vessels. It was quite clear, therefore, that the law required to be altered so as to allow the good vessels to take as many passengers as they reasonably could, and on looking into that law we saw that there were a great many minute rules which probably

would be found, if we retained them in the Act, to be an undue restriction upon vessels of a large size, which were conducting their business thoroughly well. Mr. HOBHOUSE, therefore, proposed to introduce this Bill for the purpose of relieving the specific grievances which he had mentioned, and of consolidating the Acts, and altering them in the direction of giving the Local and Supreme Governments power to effect, by rules from time to time, that which the Act now provided for in a much more rigid way.

The Motion was put and agreed to.

MARRIED WOMEN'S PROPERTY BILL.

The Hon'ble Mr. HOBHOUSE also moved for leave to introduce a Bill to explain and amend the law relating to certain Married Women, and for other purposes. He said that the object of this Bill was principally to enable certain insurances to be effected in the case of marriages which were celebrated before the year 1866. The Council would be aware that in the year 1865 there was passed the Indian Succession Act (X of 1865), and that Act contained a clause to the effect that "no person shall by marriage acquire any interest in the property of the persons whom he or she marries, nor become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried." That made married women who came under the Act owners of property to a great extent, but it only applied to marriages celebrated after the year 1865. Now, in England there had lately been passed an Act concerning the property of married women, and that Act contained several provisions which the English Legislature had thought fit to apply to all marriages. One of these was that a married woman might effect an insurance in her own name and deal with that insurance just the same as if she had been an unmarried woman. Another provision was that a married man might effect an insurance for his wife and children and a certain protection was given to such insurances. Some gentlemen connected with insurance offices in this country applied to the Government a short time ago, stating that those provisions were found exceedingly beneficial, and they did not see why they should not be applied to India. We now proposed, therefore, to introduce an Act which should embody for India the same provisions as those which had been thought fit for the people of England.

The Motion was put and agreed to.

BURMA LABOUR CONTRACT BILL.

The Hon'ble Mr. HOBHOUSE also moved for leave to introduce a Bill to regulate the transport of Native labourers to British Burma and their employment therein.

He said that he believed the plan of such a measure as this originated in the visit of the late Lord Mayo to British Burma. With his usual activity he went into the social circumstances of the country, and was very strongly impressed with the fact that there was a great quantity of fertile land which was not producing what it might produce for want of labour, and he communicated with the Planters at the time, and there passed between them what he (Mr. HOBHOUSE) would not call a promise, but an undertaking on the part of the Government to consider whether the law might not be so adjusted as to induce Indian labourers to go to Burma and to give the Planters the benefit of their labour. The Planters were perfectly willing to pay for the transport of the labourers to Burma, provided they could be secured a due return in the shape of labour. At present the law did not enable them to secure such return. The contracts into which the labourers would enter were not of such a nature as would make the return to the Planter secure. When the man got to Burma he might throw his employer overboard, and so cause the Planter the loss of money he had expended on his passage to the country. Under these circumstances, the Planters prepared a draft measure which they submitted to the Chief Commissioner of British Burma, who forwarded it to the Government of India. It was necessary, however, for the Government of India to look at both sides of the transaction, and not only at the side at which naturally enough the Planters most looked. Their draft was principally concerned with the obligations and privileges of the labourer when he got to British Burma. We also had to see that a grievance did not arise to the labourer during his transit from his home. Everybody knew that it had been necessary to make stringent legal provisions concerning emigration to foreign countries. Whether it was necessary to make the same provisions concerning emigrants to British Burma, he (Mr. HOBHOUSE) could hardly yet tell, but it was certainly necessary to make some provisions; because although there was a great difference between the two cases in this respect, that British Burma being part of our own dominions we could see for ourselves that the emigrants got proper treatment when there, while we could not do so in regard to foreign countries, yet in a great many respects the circumstances were the same. The emigrants in either case had to leave their homes and get down to the sea in precisely the same way; they had to cross the sea, not for so long voyages it was true, but still for a voyage; and when they got to the other side of the Bay of Bengal they would find themselves among a foreign people speaking a strange language. In these and other respects the cases were similar. There were consequently many respects in which we had to look to the protection of labourers who were induced to go to British Burma. The proposed Bill, therefore, had two separate objects in view, one, that the labourer should understand what his new position would be before he was induced to leave his own home, and that proper arrangements should be made for convey-

ing people, who would, we hoped move in large quantities, and the other was the regulation of the labourer's liabilities and privileges when he got to British Burma.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to regulate the Procedure of the High Courts in the exercise of their Original Criminal Jurisdiction, and for other purposes—the Hon'ble Messrs. Ellis and Bayley and the Mover.

The Council then adjourned to Thursday, the 7th August 1873.

SIMLA ;
The 24th July 1873. }

WHITLEY STOKES,
Secretary to the Government of India,
Legislative Dept.