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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 14th August 1873.

PRESENT:

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

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

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.

BURMA LABOUR CONTRACT BILL.

The Hon'ble MR. HOBHOUSE introduced the Bill to regulate the transport of Native labourers to British Burma, and their employment therein. He said that it would be necessary to explain carefully to the Council what the machinery of the Bill was, and in order to make it clear what work that machinery had to do, he must first mention what were the objects which the Bill aimed at, and the principles on which it went. The main principle of this Bill was, that it was expedient to encourage what we might call emigration, or migration, if that term was preferred for movement from one part to another of the same country; at all events to encourage the free transport of labour from one part of the country where it was abundant to another which was languishing for want of it. It had been very much debated in this Council whether emigration was at all a good thing for the country from which the emigrants were taken, and MR. HOBHOUSE had seen it broadly laid down that in no part of India was there superabundance of labour, and that every man who was induced to emigrate, *pro tanto*, impoverished the country which he left. Now, he was not going to enter into the discussion of so wide and vague a subject as that. Indeed, he could not do so because he did not possess the requisite knowledge of particulars, if indeed any body possessed it. But he must confess himself extremely sceptical as to there being any impoverishment at all by the circumstance that labourers left a country which was abundantly stocked; on the contrary, it seemed to him

that if you took a man away from a place where he earned only so much, and you removed him to a place where he earned many times as much, you enriched the whole world, and not least the place from which the emigrant came, and into which a portion of his acquired wealth was quite certain to flow.

But Mr. HOBHOUSE would not discuss this question, because he took his stand upon the principle that emigration was a good thing for the emigrant himself, and for the class to which he belonged. He did not rely upon a proposition that he believed but could not prove, but he did rely upon a proposition which he both believed and could prove; for any one who would study the returns which we had of the doings of our emigrants in many parts of the world, would find that, wherever they went, they became far more wealthy and prosperous than they were in India; that a very considerable number of them returned to India bringing with them substantial sums of money, and that of these some, not a very few, were so satisfied with their foreign life, that they returned to the colony where they had made their money. These seemed very conclusive proofs that the direct effect of emigration was to improve the welfare of the emigrants. Its indirect effect was that a man returned to his home with more independence and more self-respect; he had got a new set of ideas, which travel would always give to the most torpid mind; he had lost that mysterious horror of the sea which infected the people of this country; he would communicate those ideas to the people about him, and it was impossible not to believe that such influences, if continued for a length of time and on a considerable scale, would do as much as anything could do to elevate the people of this country who were affected by them.

That was the principle upon which we should go; that we seek the benefit of the emigrant himself. It was not only that this proposition was the more susceptible of proof; it was also of far more importance than that which related to the general effect of emigration on the country.

For, supposing we did prove that emigration would relieve and enrich the country from which the emigrant went, still if that result were obtained at the expense of the happiness of the emigrant, we should have no right to encourage emigration. Or, if again, we could prove that the effect of the emigrant's departure was to impoverish the country, while it elevated the condition of the emigrant himself, and the class to which he belonged, we should have no right to discourage emigration.

Now, taking the main principle of the Bill to be that proposed, *viz.*, to promote emigration because it was for the good of the emigrant himself, we

had to consider certain dangers which attended the moving of people from their homes. The first was very obvious, in fact the most obvious of all dangers, that was to say, that which attended the movement of people in large numbers; and where there was any systematic emigration of this kind, they must move in large numbers—and there were many dangers to be apprehended from diseases, ill-treatment, &c. These, however, were dangers of rather a mechanical kind, and might be met by mechanical arrangements. But there were others of a more subtle character. Nobody could fail to see that the relation between emigrants under contracts and their employers was of a somewhat strained kind. The emigrant, in order to give the employer a motive to remove him, must necessarily to a certain extent part with his liberty; he must engage himself by contract to labour for a certain space of time for a given person; he could not move about freely wherever he pleased; he could not carry his labour into whatever market he liked; to that extent therefore he subjected himself to a state of slavery, and that state must be supported by the strength of the law. It was obvious that in such a state there might be danger of some ill-treatment. With the very best intentions in the world, the class of employers would find themselves on occasions in antagonism to the class of labourers, and they might be tempted to push their rights to such an extent as to produce evil. It was found in some colonies that Governments had to contend with dangers of this kind; there was indeed a tendency to this particular danger in all places, and it was a danger which no Government could shut its eyes to. There was another danger, which was perhaps even more subtle than the one he had just mentioned, and that was, that some deception might be practised upon the emigrants in making the original contracts. Emigrants could not be procured without agency, and the agents who procured these emigrants would no doubt do as all agents did,—represent the bargain they had to offer in the most favourable terms. Mr. HOBHOUSE did not know that we could help it. He did not suppose that any one ever bought a horse or a house, or any other property, without having it described in much more favourable terms than reality warranted. We could not prevent a recruiting sergeant from telling those whom he was desirous of enrolling, that they would all eventually be General Officers or Colonels at the very least; and neither could we prevent the recruiting agent from painting everything in rose-colour. He would naturally say that the place for which he was recruiting was a sort of earthly paradise; that there was plenty to get, and little to do; that the sun did not burn there; nor the cold pinch; that it was a lotus-eating land where it seems to be always afternoon; that in fact, life went much more easily and pleasantly than it could possibly do in British India. Well, all we could do to meet that sort of evil was to take care that the persons making the bargain were confronted with a responsible officer, and that that officer should take the pains to make

the emigrant understand the meaning of the bargain into which he was entering; that he should understand what sort of place he was going to; the nature of his work, and how much he would have to do; what amount of wages he was to receive, and for what length of time he was engaged to part with his liberty.

These, then, were the main objects of the Bill, and MR. HOBHOUSE might describe them shortly thus:—That we should endeavour to regulate the movement of emigrants so as not to produce the mischiefs which unregulated movements of a large number of people always engendered; that we should endeavour to reduce to a minimum the tendency towards ill-treatment which must be expected from the position in which the employers and the employed were placed; that we should make it as certain as we possibly could make it, that the emigrant understood the nature of the bargain which he had entered into, and that as the cooly was somewhat ignorant and helpless, we should also endeavour to secure him as good a bargain as was compatible with the planter's interests, and with the promotion of emigration on a large scale.

We must always remember that the whole motive power of this machinery was to proceed from the planters themselves. There were on the one hand, the planters with land and wanting labour; on the other, the labourers; and somehow or other, we could not get the two together. Now the planters were perfectly willing to pay for the required transport of labour, and the reason why they did not themselves set up machinery for carrying labourers over to British Burma was simply because they had no security that they would get the labour for which they had bargained. There was, no doubt, a clause in the Penal Code which provided that if a man voluntarily made a contract, and without cause broke his contract, he should be punished. But that clause only related to contracts for three years and was too limited in that respect. The remedy also was of too cumbrous a character for the employers to rely upon. What they wanted was some more simple machinery close at hand, by which, when persons had entered into a contract with the employer, and had received advances for that contract, he should be certain that he would get his money's worth for his money.

Such being the objects of the measure, MR. HOBHOUSE would now try and explain to the Council how we endeavoured to attain them. And first he might mention what laws there were now upon the Statute-book relating to this subject. There was a Bengal Law, Act III of 1863, which was for regulating the transport of labour to the Provinces of Assam, Cachar and Silhet; there was a Madras Law, Act V of 1866, which was

for regulating emigration outside the limits of the Presidency of Madras; and there was the Emigration Act, Act VII of 1871, which was for the general regulation of emigration. The second and third of these Acts only dealt with that part of emigration which consisted in the removal from British India, or the Presidency of Madras, as the case might be; they could not deal with anything which was beyond their legislative limits. The general Emigration Act dealt with those persons who proceeded to foreign countries; the Madras Emigration Act, dealt with those emigrants who proceeded beyond the Presidency of Madras, and when emigrants got beyond their respective limits, the power of the law was at an end. The Bengal Act dealt with both sides of the question, and it was from that Act that a large number of the provisions of the present Bill had been taken. Indeed, a great number of the provisions of that Bill formed the basis of the general Emigration Act, so far as it concerned operations within British India. MR. HOBHOUSE'S predecessor, Sir Henry Maine, in introducing the general Act of 1864, expressly said that he had founded it mostly upon the Bengal legislation; and the previous Act of 1864 passed into the Act of 1871, and now constituted the law.

MR. HOBHOUSE would now call the attention of the Council to the details of the provisions of the present Bill. Section two contained the exceptions from the operation of the measure. Nothing in the proposed Act applied to contracts with, or the emigration of, Native seamen, domestic servants, or skilled artisans. Native seamen and domestic servants had always been excepted from every Emigration Act, even from those which were most restrictive in their tendencies. Our legislation, indeed, on the whole, had been restrictive, sometimes prohibitive on this subject, but those classes had always been exempted. Seamen engaged themselves individually and on the spot. With regard to domestic servants, there had been some emigration of this class between India and British Burma, and a very considerable emigration between India and the Straits Settlements; but as they always went from the sea-side, and met their friends on their arrival, there was no necessity for protecting them. As for skilled artisans, they could take care of themselves.

Then we came to the general machinery which was established on this side of the water. There were to be Emigration Agents appointed by the Chief Commissioner of British Burma at the ports of embarkation, and there was power reserved to the Supreme Government to say what ports should be ports of embarkation. At these ports, there were also to be depôts for emigrants, and Medical Inspectors who were to report any circumstances which might come to their knowledge, showing that a depôt was not suitable for

its purpose, or that the emigrants were treated with neglect or oppression. The Emigration Agent was also to employ licensed persons to be recruiters of labour for British Burma. Here we had dispensed with part of the machinery which had been found necessary in the Emigration Act, where, for the purpose emigration to foreign parts, there was an Emigration Agent appointed by the Colony, and a Protector of Emigrants appointed by the Local Governments. In this Bill, we thought it sufficient to have a single person whose duty it should be to superintend the whole business connected with the emigrants. The recruiters, who would come into immediate contract with the coolies in the first instance, were to be licensed by the Emigration Agent. Their license was to be countersigned by a local Magistrate, and he was not to countersign that license until he had satisfied himself, by such inquiry as he thought fit, of the fitness of the recruiters.

Then we came to what was to be done with the cooly before he quitted his home, and the principal operations were contained in the sections numbering from sixteen to twenty-two. Section sixteen might be called the key-stone of the whole edifice. By that section, we provided that any person desiring to emigrate under this Act to British Burma, might enter into a contract with a recruiter to proceed to British Burma and there serve in a certain district for a fixed period of not less than three, and not more than five, years from the date of his arrival in such district; then other terms of the contract were specified, and at the end of the section, we provided that no contract to labour in British Burma should be binding on an emigrant unless it was made in accordance with this Act. This, therefore, was the most important point for us to look at, namely, what was the inducement to the labourer to quit his home? One could easily understand that when a man had once been induced to weigh his anchor, and quit his home, he was placed at a great disadvantage in fighting any battle he might have to fight. He was among strangers; he had broken from his old associates, and he had nobody to rely upon; and the important thing was that he should not quit his home unless he had a fair understanding of the bargain he made, and also as fair a bargain as we could secure to him. The term of labour was the most important term of the contract. The term proposed by the planters of British Burma themselves was that of five years. The term of three years had been thought by some to be quite sufficient to remunerate the planter. On that point, Mr. HOBHOUSE thought we must anticipate some discussion. He might mention that five years was the usual term in the various colonies, but this was not altogether a guide for us, because the expense of carrying the labourer to a distant colony was greater than that of carrying him to British Burma, and,

therefore, the term of labour might well be longer. The question was in the main one of money, depending on the expense of transit and the state of the labour market; and in order to decide any controversy, we should require more precise information than we had at present. We should want to know more precisely what the wages for labour in British Burma were; how far the labour of three, four, or five years might be expected to put money into the planter's pocket; the expense which he had been at in conveying coolies to British Burma, and the risks he ran from the various losses that would occur from desertions, sickness, deaths, and otherwise.

We had provided also, that the contract should specify the district in which the service was to be performed; the term of service; the number of days and hours of work per month; the nature of the work; the rate of wages; the rate at which food was to be supplied; and the persons intending to accompany the emigrant as his dependents. And then it was provided that the monthly rate of wages should in no case be less than *seven* rupees for an adult labourer. The Council would observe that the word '*seven*' was printed in italics, which was intended to denote that that also was a matter which must be further considered before it was finally determined what should be the minimum rate of wages. The Burmese planters had proposed that the minimum rate should be five, but the rate had been altered to seven, which we had put in the Bill; but we asked for criticisms and discussion on the subject. That, therefore, was the nature of the contract.

Then we proposed that a medical examination should take place before the Civil Surgeon of the district or other medical officer appointed for the purpose. This had a two-fold object: one, for the sake of the emigrant that he should not undergo labour which he was unfit for, and the other, for the sake of the planter, for it was often found that improper persons were passed off on the planters for labourers and were utterly useless when they got to the place where they had to work. Then we brought both the emigrant and the recruiter before the Magistrate of the district or town in which the contract was entered into. The Magistrate was to inspect the medical certificate, and himself to examine the emigrant with reference to his contract, and if it appeared that he understood the nature of the contract, then the Magistrate was to register the main terms of the contract—the man's name, age, and description, and he was then to be a registered emigrant. If, on the other hand, the Magistrate had any reason to think that deception had been practised, or that there was any material misunderstanding on the cooly's part, then he was to refuse to register the emigrant who was not to be removed at all from his home. That was the security which we proposed for the emigrant's understanding the nature of the bargain into which he entered.

The next part of the Bill was concerned with the cooly's journey to the port of departure. It was contained in sections twenty-three and twenty-four and was simple enough. All we could do was to provide that either the recruiter himself, or some competent person who should be appointed by the Magistrate, should accompany the emigrants, and upon him was to devolve the duty of providing the emigrants with proper food, clothing, lodging, and the proper appliances of various kinds, and a penalty was to be inflicted if any wrong was done in that respect.

We had now got our emigrant down to the sea-side. On his arrival there he was to go to the depôt, and was there to be examined by a Medical Inspector. That was necessary for two purposes. It might be very desirable to see again that the emigrant was not himself an improper person to be sent over the seas to labour, and also when the emigrants got in large numbers into a depôt there arose a danger of contagious disorders which might be alleviated or cured, or prevented, by inspection. Here again there was an opportunity of making complaints. The emigrant, if he had been ill-treated during his journey to the depôt, might complain to the Medical Inspector or to the Emigration Agent, and powers were given to those officers to return the emigrant at the expense of the Emigration Agent. If it was considered that he was an unfit person, he was to be returned to his home; if ill-treated he might receive compensation; if all was well, the Emigration Agent was to ratify the contract into which the emigrant had entered, and he was to forward a copy of that contract to another officer on the other side of the water whom we proposed to call the 'Immigration Agent.'

Then as to crossing the sea. The Emigration Act provided a number of details respecting the character of the vessels which were to carry emigrants. We did not do that in this Bill, but thought it more prudent to provide that the Local Governments should be empowered to make rules upon that subject. We thought it very likely that the character of the vessels would vary according to the different ports from which they started, and the different ports to which they were plying, and that it would be a more workable scheme if the Governments were empowered to make rules from time to time on these subjects. But no ship could take emigrants without being licensed, and no ship was to depart from a port unless it had received a certificate both from the Emigration Agent and the Medical Inspector, to the effect that everything which ought to have been done by them had been done.

When the emigrant had crossed the water, the machinery he would find was this: There were to be general Agents whom we would call

Immigration Agents. There were to be depôts and Medical Inspectors at the ports at which the immigrants disembarked, and there would be Inspectors of Immigrants, whose duty it would be to see that justice had been done to the immigrant during the voyage. Practically, when he disembarked, which he was not to do without the sanction of the Immigration Agent, he would again have an opportunity of making any complaint of ill-usage or improper treatment in the course of the voyage. The Medical Inspector at the port of debarkation was not to examine each immigrant in order to see that he was fit for labour, as that had been sufficiently done on this side of the water, and it would be somewhat late to find out on the other side that you had got a man of doubtful strength; but he was to examine the vessel for the purpose of ascertaining that there was no contagious disorder or other disease likely to arise from people herding together in great numbers. The Immigration Agent was to have the power to institute an enquiry into the treatment of the immigrants, and to take such proceedings as he might think proper, if they had been subjected to any ill-treatment.

Then we had to get our man from the port of debarkation to the station at which he would either find the estate on which he was to labour, or from which he would go across-country to it. That transit, MR. HOBHOUSE believed, would be entirely by boat, and we only provided in this Bill for transit of that kind. Here, again, we gave a large power to the Local Government to make rules for regulating all vessels which were to take the immigrants to the station. We provided that no vessels could go without a licence; that licence was to be for each trip, and was to specify the number of immigrants which the vessel was licensed to carry, with other particulars. Each immigrant before he embarked was to receive a pass from the Immigration Agent; and we made the master of the vessel responsible for landing the immigrant at the right station, excepting in cases of unavoidable accident or necessity, such as sickness, or events of that kind. We also gave any Magistrate on the route power to inspect any vessel which contained immigrants in their progress from the port of debarkation to the station.

Suppose, the immigrant to have arrived at the station, he was there handed over to the care of the Magistrate of the district. That Magistrate was to give notice to the employer with whom the immigrant had contracted, and the employer was bound to pay all the expenses of his food, lodging, and other appliances for his welfare during the time that he was to remain at the station. The Magistrate was empowered to provide all these things, and to charge the employer with them. MR. HOBHOUSE had forgotten to mention a point which he ought to have referred to before, namely, that at

the port of debarkation the immigrant was to be assigned to a particular employer. As long as he was in India he would have a general contract with the recruiter or the Emigration Agent, as the case might be; but there would be very great difficulty in assigning a man on this side of the water to a particular employer in British Burma. In all probability, if attempts of that kind were made, it would be found with a number of recruiters that one man could get more labourers than he wanted, and another man not so many; whereas if we provided that the labourer should go to British Burma and contract to serve in a certain district, and that the Immigration Agent in British Burma should receive orders from the planters to get them so many labourers, then, MR. HOBHOUSE thought, that under regulations which the Local Government would make upon the point, there would be little difficulty in assigning to each employer the precise number of labourers that he wanted. Of course, it was no particular object to the labourer whether he contracted with Mr. A. or Mr. B., as he did not know the difference between them, and, therefore, we proposed to leave that point to be settled by the Immigration Agent. MR. HOBHOUSE observed that in the Bengal Act it was assumed that before a man moved from his home, he contracted to serve a particular employer. He was not aware how that plan worked, but he thought that in the case of recruiting for British Burma, it could hardly be expected to work well.

Well now, the employer had taken the immigrant from the station to the estate, and here the cooly fell under the direction of Inspectors of Immigrants whom the Chief Commissioner of British Burma had to appoint. Most of the provisions in this part of the Bill were taken from the draft which was prepared in conjunction with the planters themselves, and, therefore, MR. HOBHOUSE presumed that it would meet with their approval at any rate. It was provided that employers of immigrants should make twice a year a return of the number of immigrants employed by them, and a return of the sickness and mortality upon their estates. The Inspector had power to inspect, whenever directed by the Chief Commissioner, every hospital, tent, camp or building used by the immigrants. He might also require that any immigrant might be produced before him with his instrument of contract. He was to keep books in which to enter those particulars, and he was to make an annual written report to the Chief Commissioner of all those particulars. Magistrates had power to make a similar inspection. The employers were, with the sanction of the Inspector, to fix the daily tasks which the labourers were to perform; if there was any dispute about these tasks, then a Committee was to be appointed for the purpose of revising the schedule of tasks; that Committee was to consist of the Inspector,

of some employer to be nominated by him, and of some person to be nominated by the employer with whom the dispute existed; then the Committee might, with the previous sanction of the Chief Commissioner, make any alteration in the schedule of tasks. Then, again, the Inspector had power to give certain indulgences to immigrants who were subject to sickness, or were incapable of labour. He might suspend their contracts, or he might even vacate the contracts altogether. Then there were certain duties cast upon the employers. They were bound to provide sufficient house accommodation, proper appliances for cleanliness, food, and health. If an estate was found to be so unhealthy as to be entirely unfit for the residence of labourers, then a Commission might be appointed, and upon their report, if it was against the salubrity of the estate, the contract of the whole of the immigrants might be vacated.

These were the main provisions for the security of the labourers while they were under contract; they bore a resemblance to the provisions which had been made in various colonies for the security of the labourers there; and it was confidently hoped that they would be found sufficient for all purposes.

Then there was that portion of the Act which contained the various penalties provided for labourers who did not act up to their part of the contract. We had heard of the benefits they were to receive, but if, on the other hand, they, without any reasonable cause, refused to perform their part of the contract, they would be subjected to various punishments. If they deserted, they would be subjected to imprisonment for terms varying in length according to the number of desertions; but it was provided that if any immigrant suffered imprisonment amounting in the whole to six months for desertion (and he must have deserted three times to incur that amount of penalty), the Inspector should, if the employer so desired, cancel the contract of the labourer in question, or the contract might be transferred to some other employer. Then there were penalties upon persons for enticing away, harbouring or employing immigrants under contract to any other person; and it was provided that the term of imprisonment which the immigrant might undergo should not count towards his term of service, but that the term of service should be lengthened by the length of each term of imprisonment. All these provisions were for the security of the planters, and we hoped that they might prove as efficacious as the provisions for the security of the labourers.

Then there was a clause of some importance—clause one hundred and two—providing that immigrants might redeem their contracts on the payment of certain sums. The amounts of payment for the redemption of the contract must

be left subject to some uncertainty. Of course a great deal would depend on the term of service, and a good deal upon what was fixed as the minimum rate of wages. It was a money calculation, and we could not safely omit any element of the bargain from the calculation.

Another clause (one hundred and four) provided that any immigrant whose contract had been completed, determined, or rescinded by the mutual assent of the parties thereto, should be entitled to be conveyed back to the port from which he embarked for British Burma at the expense of the employer with whom he may have contracted. That again was a subject for controversy. It was not proposed on behalf of the planters but on behalf of the Government. The practice was followed in a great many cases of emigration to the colonies, and a good deal of importance was attached to it.

Sections one hundred and five, one hundred and six, and one hundred and seven related to matters on which the Governments might make rules, *viz.*, what ports should be ports of embarkation and debarkation, the probable maximum length of voyages, the management and regulation of vessels, hospital accommodation, medicines and other requirements.

It only remained to say that it was proposed (in section sixty-six) to raise the funds necessary to defray the expenses of all this machinery by a rate levied from the employers, each man paying according to the number of immigrants under contract with him. The maximum of this rate was placed in the Bill at Rs. 5 per contract immigrant every year; but that again was one of the points of detail on which we should doubtless hear more, and which for its final decision must depend upon what was decided with reference to other portions of the plan.

That, then, was the whole Bill. There was one clause which was conspicuous by its absence, and it would no doubt be asked why it was absent. It was one which was present in the Bengal Act, the Madras Act, and the General Emigration Act, a clause which made it penal for any body to enable a person to emigrate, except in accordance with the provisions of the Act. That penalty we proposed to omit for the reason which MR. HOBHOUSE had already had explained to the Council, namely, that it was not our desire to repress, nor to fetter, but to encourage emigration. MR. HOBHOUSE could understand why such a clause should be in the General Emigration Act, or in the Madras Act, because when the emigrant went beyond the bounds of India or the Madras Presidency, he was beyond the law, and the framers of that law would be quite unable to see him righted if he suffered wrong. But why there should be that penalty upon emigration within the Indian

dominions he could not understand. He feared, indeed, that at the present moment the question was not a very practical one, because we saw that emigration would not spring up of itself. If it sprung up under the proposed Act we should be delighted; if it sprung up independently of the Act, MR. HOBHOUSE for one would be more delighted still; at present he did not believe it would spring up of itself, but that was no reason why we should discourage voluntary emigration. It was quite sufficient to say that those who did not conform to the provisions of the Act should not have the benefit of contracts under the Act. MR. HOBHOUSE could not conceive a more healthy influence on the condition of Indian labourers than that they should be induced by returning emigrants or otherwise to pass of their own accord in large numbers to places where people were willing to employ them. If they would do that, it would in his opinion be a better state of things than anything that we could hope for under this Bill, and we certainly ought not to put anything in the Bill that would repress such action. If the omission of such a provision were found to produce evil, MR. HOBHOUSE thought we might safely leave the matter to our successors to deal with; his belief was that it would not produce evil but only good, but at all events we might safely leave it to those who found the evil to exist, to say whether they should help it, hinder it, or let it alone.

Those were all the observations MR. HOBHOUSE had to make in introducing the Bill. With regard to the Motion that stood in his name that the Bill should be referred to a Select Committee, he thought it would be better to adopt one of the alternatives allowed by the Rules. The fact was that we could not with any advantage work upon this matter until it had been criticised by the Local Governments, and probably not until it had been criticised by somebody looking at it from another point of view than that from which the Government looked at it. We had done our best to frame a Bill with the materials we had. The Government of Bengal which was engaged on a similar work would no doubt have a great deal of valuable matter to impart to us; the Government of Madras which had a provincial law relating to the subject, which was now engaged on the subject of emigration to the Straits Settlements, and whose Act we proposed to repeal, would also have a great deal to say; the Chief Commissioner of British Burma would also have representations to make; and MR. HOBHOUSE presumed such bodies as Chambers of Commerce, and those who represented the interests of the planters, would also have a great deal to say. MR. HOBHOUSE thought, that before proceeding a single step further, we had a good deal to learn and consider, and he did not believe we could discuss this matter further to any advantage excepting at Calcutta. There we should be in immediate communication with the Government of Bengal; we might hope for the assistance of some gentleman from Madras; and if we did not have a Member of the Government of British

Burma close at hand, at all events we would be very much closer to the country than we were at present. Therefore, MR. HOBHOUSE proposed to move that the Bill be now circulated for the purpose of eliciting opinions. That done, we should not attempt to handle it in Select Committee until we had the communications which MR. HOBHOUSE had referred to, and the advantage of a more favourable place for the discussion of the measure.

The Hon'ble MR. HOBHOUSE then moved that the Bill be published in the *Calcutta Gazette*, the *Fort St. George Gazette*, the *North-Western Provinces Gazette*, and *British Burma Gazette*, in English and in such other languages as the respective Local Governments thought proper.

The Motion was put and agreed to.

EUROPEAN VAGRANCY BILL.

The Hon'ble MR. BAYLEY introduced the Bill to consolidate and amend the law relating to European Vagrancy, and moved that it be referred to a Select Committee with instructions to report in four months. He said that he had explained at the last meeting of the Council the nature of the amendments which it was proposed to make in the existing law, and the circumstances under which they had been found necessary. He would, however, briefly restate those points. He might say that the Act of 1869, the subject-matter of which was approached very cautiously and which enactment itself was very carefully considered before it was passed, was nevertheless dealing with a subject so entirely new that the law was to some extent experimental, and the Government of India called upon the Local Governments to make very careful periodical reports as to its working. Shortly after it had been passed, a considerable blot was found in it which it became necessary to remove by Act XXVIII of 1871. Subsequent reports had pointed out other defects, which though not perhaps so grave were nevertheless of sufficient importance to demand a remedy, and they could not be remedied without having recourse to legislation. It being thus necessary to have a third Bill, it had been considered expedient to consolidate the two previous Bills with the amendments now proposed, so as to have only one statute for the subject upon the Statute-book. He might say that although the subject was new and the experiment somewhat a serious one, so far as it had gone, the Act had worked extremely well, and not only with great advantage to the public, but also to the unfortunate class who were the subject of its provisions.

The two first points on which the law was to be amended had reference to the discipline of the work-houses in which the vagrants were detained.

The first amendment would be found in the fourteenth section of the present Bill, and its object was to give to Governors of work-houses power to maintain discipline by certain minor punishments. The Local Governments, especially the Government of Bombay, had brought this subject to notice, and they proposed some severer penalties than those which the Governor General in Council thought fit to adopt. Section fourteen, however, gave the Governor of a work-house (if authorized in this behalf by the Local Government, so that the Local Government might not necessarily give the power to a man whom they did not think fit to exercise it) power to punish any vagrant by the following penalties :—

- “ by imprisoning him in solitary confinement for any time not exceeding seven days,
- “ by ordering him for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the Local Government shall prescribe, or
- “ by hard labour for any time not exceeding seven days.”

Those were the penalties which were provided for the maintenance of discipline within the work-house. There was one other question relating to discipline which was dealt with in the twentieth section. It was, under the existing law, an offence to escape from a work-house. The existing law also gave power to the Governor of a work-house to permit any vagrant who was confined to go out in search of work or for some other purpose ; but in some work-houses, notably those in Bombay, it had been found that the men who had obtained such permission very often did not return within the limited time. It had been a question whether that constituted the offence of escape within the meaning of the Act, and, therefore, section twenty provided for it by the following clause :—

“ Any vagrant * * * * * who leaves a work-house, under this Act, without permission from the Governor,

“ or who, having with such permission left a work-house for a limited time or a specified purpose, fails to return on the expiration of such time or when such purpose has been accomplished or proves to be impracticable,”

shall be obnoxious to the general penalty of the clause, that is to say, he—

“ shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.”

MR. BAYLEY thought he need not add anything in support of those clauses, the necessity for which was pretty clear ; but he might say that in Bombay the number of escapes by vagrants during the past half-year was no less than thirty-seven, which was somewhat about 40 per cent. of the total amount of inmates ; and they almost all escaped in the way he had described, namely, by going out with permission and not returning.

There were two other points for which, as the law was about to be amended, it had been thought expedient to provide. One was to render the owners of ships from which foreign European sailors were discharged, liable in case such sailors become vagrants. Some doubt had arisen whether, under the existing law, this liability existed; but it was no doubt the intention of the original Act that it should exist, and, therefore, in section thirty-one the following clause had been inserted:—

“and whenever a sailor of European extraction not being a British subject, is discharged from his ship in any British Indian port,

“and becomes chargeable to the State as a vagrant within one year after his * * * * discharge from his ship, * * * * then the person, * * * * who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act” (that was the cost of his deportation), “and all other charges incurred by the State in consequence of his becoming a vagrant.”

The last point which he would bring to the notice of the Council was that which was dealt with by section thirty-two. It was in fact an amendment of the first section of Act XXVIII of 1871.

By that Act, the consignees or agents of the ships in which animals were imported into India became liable for the deportation of any persons, in charge of such animals, who became vagrants afterwards. This provision was intended to meet the case of grooms landing in charge of horses from Australia, and who every year were turned loose in considerable numbers in the streets of large Presidency towns, and left to find their livelihood as best they might. Generally, for the most part, they were shiftless persons who had been picked up in the streets of Australian sea-ports, and consequently were more liable than most men to become vagrants if left to themselves. One curious case occurred recently at Calcutta, which showed that the law was not quite sufficient to meet the requirements of such cases. A man had been engaged to go in charge of horses to Madras. On board the same ship were horses consigned to Calcutta; when he got to Madras, he did not land there, but was allowed to work his way on to Calcutta in charge of the horses consigned to that place. He eventually became a vagrant in Calcutta, but as he had come from Australia with other horses than those which were landed at Calcutta, the law did not apply, and the Government had no remedy either against the agents of the horses or of the ship. The clause which was inserted in section thirty-two was meant to meet this blot, and the words “during his passage to India or from one Indian port to another” had been inserted with that view.

As MR. BAYLEY had already said, the law, on the whole, had been found to work well. Its consolidation was a matter of general convenience to the public; the alterations which were proposed were very slight, and the necessity for them would be, he thought, almost self-evident to the Council.

His Excellency the COMMANDER-IN-CHIEF begged leave to make a remark, which perhaps he ought to make when the Bill was before the Committee. As, however, he did not think it probable that he would be present in the Council when the Bill was being discussed, he wished now to say that he was of opinion that the punishment, extending to two years, to be inflicted on vagrants who had escaped from work-houses, was rather extreme. He thought that if the term were limited to one year, it might meet the offence sufficiently.

The Hon'ble MR. BAYLEY explained that the penalty was not a new one. It was imposed by the original Act, and he believed it was intended to meet those cases in which a man not only escaped, but had probably committed some offence under the Vagrancy Act, with which he might possibly be separately charged, such as asking or extorting alms, or making himself otherwise disagreeable. The extreme penalty of two years was a maximum, and would be inflicted only in flagrant cases.

His Excellency THE PRESIDENT thought it would be desirable that the Committee should look to the penalties in Part V of the Bill, as they did not seem to be framed on any particular principle.

The Motion was put and agreed to.

NORTH-WESTERN PROVINCES AND OUDH MUNICIPAL BILL.

The Hon'ble MR. HOBHOUSE moved the following amendments to the Bill to make better provision for the appointment of Municipal Committees in the North-Western Provinces and Oudh, and for other purposes. He said that it seemed odd now to be moving amendments in that Bill, which we proposed to pass at the last meeting of the Legislative Council; but with one exception the amendments had been sent to us on behalf of the North-Western Provinces, and we should have passed the Bill before we received any notice of those amendments, if the Government of the North-Western Provinces had not also delayed the publication of the Bill. They seemed, however, to be small matters and spoke for themselves, and one did not like to overlook anything which the Government which would have the management of the Bill considered might tend to smoothness and ease in working. The first amendment he had to move, therefore, was—that in section six, clause 1, line 7, after the words

“inhabitants of,” the words “or persons possessing property or carrying on any trade or business in” be inserted.

The effect of it was that the Local Government might appoint on a Committee not only those persons who inhabited the municipality, but those who possessed property and carried on trade or business in it. An instance had been mentioned to us by our Hon'ble Colleague, Mr. Inglis, in which it was very desirable to appoint some person of weight and influence who did not reside in the municipality, but who did possess property there; and he stated that it was only after considerable difficulty they managed to appoint him. It was thought, therefore, desirable to insert those express words in the clause.

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE also moved that in the same section, clause 3, line 4, after the word “electors,” the words “and of the candidates for office” be inserted.

The Motion was put and agreed to.

MR. HOBHOUSE explained in regard to the next amendment, that section seventeen of the Act was the section which enabled the Committee to impose other than the specified taxes with the previous sanction of the Local Government and the Governor General in Council, and it was desirable to add some words to make it quite clear that the conditions of the former section should be complied with. He would, therefore, move that to section seventeen the following words be added: “and subject to the provisions of section fifteen.”

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE next moved that in section nineteen, line 1, after the word “No”, the words “tax or toll, or” be inserted.

The Motion was put and agreed to.

The next amendment MR. HOBHOUSE explained was one of some substance. It was proposed to insert an amendment for the purpose of providing that not only the fines for committing nuisances within municipal limits under this Act, but also under Act V of 1861, should go into the Municipal Fund. Act V of 1861 was an Act for the regulation of Police, and it gave summary powers to Magistrates to inflict fines where nuisances were committed. It was quite reasonable that the whole of these fines should go into the Municipal Fund, and as we gave power under both Acts to inflict fines for nuisances, it would be a pity if the two powers should not coincide in this manner.

He would, therefore, move that in section thirty, line 4, after the word "Act," the following words be inserted: "or under Act No. V of 1861 (*for the regulation of Police*), on account of nuisances committed within the municipal limits."

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to consolidate and amend the law relating to European Vagrancy,—The Hon'ble Messrs. Ellis and Hobhouse and the Mover.

The Council then adjourned to Thursday, the 28th August 1873.

S I M L A,
The 14th August 1873. }

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