

Thursday, June 6, 1872

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

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ABSTRACT OF PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 11

1872

*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 6th June 1872.

PRESENT:

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

His Honour the Lieutenant-Governor of the Panjáb.

The Hon'ble Sir John Strachey, K. C. S. I.

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

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

The Hon'ble Arthur Hobhouse, Q. C.

The Hon'ble R. E. Egerton.

The Hon'ble MR. EGERTON took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

STRAITS SETTLEMENTS EMIGRATION BILL.

The Hon'ble MR. HOBHOUSE moved for leave to introduce a Bill to exempt the Straits Settlements from the Indian Emigration Act, 1871. He sketched the history of the traffic between the Coromandel Coast and the Straits Settlements from the beginning of this century. He showed that a large voluntary emigration had sprung up, to the benefit of both countries, and that a numerous Tamil population had become planted on the Eastern Coast of the Bay of Bengal. This traffic was both voluntary and unregulated by law till the year 1857. In that year, and again in 1859, Acts were passed for the regulation of passenger traffic in the Bay of Bengal. The effect of these enactments was to render the passage more expensive and to diminish the number of emigrants. The Straits planters, missing their supply of labour, then adopted the system of employing agents in India to advance money to persons willing to emigrate, and thereupon making contracts with them to work for a term of years. This system again remained untouched by law until the year 1864, when the first Emigration Act was passed. That Act was now repealed and replaced by the Act of 1871, but the provisions of the two Acts were, as regarded the present

purpose, identical. MR. HOBHOUSE then explained the provisions of the Act of 1864, by which the Straits, though then a portion of India, were excluded from the definition of India, while Ceylon was put on the same footing with India, and all emigration under contract was absolutely prohibited except to certain places, of which the Straits were not one, and under a great many stringent formalities and regulations. The extraordinary result was that, while emigration to such places as Maulmain and Ceylon remained free and untouched by the Act of 1864, the important traffic to Penang and other ports in the Straits was absolutely forbidden and heavy penalties attached to it, so far as it depended on the contract system.

It was, in fact, highly probable that such a piece of legislation was a mere oversight, caused by the circumstance that the term "British India" received an arbitrary and unreal definition at the outset of the Act, and that the draftsman, as sometimes happened, forgot that fact, and used the term in its real sense subsequently.

There were two cogent reasons for thinking so, besides the facility with which such mistakes were made. One was that, though an important traffic conducted by opulent people was thereby crippled, it did not appear that a single voice was raised against the passing of the Act; and the other was that for six years afterwards all things went on exactly as if no such Act had passed.

However, in March 1870, a Magistrate of Valam, Mr. Hathaway, issued a proclamation in which he stated that there existed an organized system of kidnapping Natives of India and carrying them off to the Penang market, the men for labour, and the women for prostitution; and he accordingly called attention to the state of the law, and actually instituted some prosecutions. The prosecutions failed. Mr. Hathaway's assertions were denied by the Straits planters, and a judicious report by Mr. H. J. Stokes (Sub-Collector of Tanjore) showed not only that there was no such system, but that the system that existed worked on a large scale, and with much benefit to the Indians, and that the mischief alleged (to say nothing of proof) only amounted to this, that sometimes delusive or exaggerated hopes were held out to induce people to go, and sometimes young people left their homes against the wish of their relatives.

The Straits planters on their side complained loudly of the injury done to their properties, of the injustice of allowing to Maulmain and Ceylon what was forbidden to Penang, and of the absurdity of enforcing the use of the

same regulations for the long voyage to the West Indies, and for the run of eight or ten days to the Straits.

These were the reasons for altering the law. The need for hurry was that the season for emigration was during the prevalence of westerly winds, *i. e.*, from June till October; that the Straits Settlements had already suffered severely from want of the accustomed influx of labour; and that it would be very disastrous if they lost another year.

The reason for putting the Bill into its existing form, *i. e.*, working by notification of the Governor General in Council, instead of direct legislation, was the necessity for haste, coupled with the fact that there were differences of opinion between the Madras and Straits Governments as to the shape which legislation should take. Since the Bill had been drawn, indeed, news had arrived that the two Governments were agreed. But they could only be agreed on principles, and there would still be details to settle. Besides, there would be several arrangements for the Straits Settlements to make, which might fall short of their present intention, and not work in a satisfactory manner. The readiest way, therefore, to deal with these circumstances, and to give the Government of India due control over the whole position, was to vest the proposed power in the Governor General in Council, who thus could always hold the law over the parties interested, and secure the framing and continued working of satisfactory arrangements.

The Hon'ble SIR JOHN STRACHEY said there could be no doubt that his hon'ble colleague, Mr. Hobhouse, was correct in his supposition that the mode in which the Straits Settlements had been dealt with by the Emigration Act of 1864, was due to a mere oversight.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE then applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The PRESIDENT declared the Rules suspended.

The Hon'ble MR. HOBHOUSE then moved that the Bill be taken into consideration.

The SECRETARY then read the Bill.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

MADRAS DISTRICT MUNSIFS.**MINORS' DEPOSITS BILL.**

The Hon'ble SIR RICHARD TEMPLE moved for leave to introduce a Bill to legalize the repayment of money deposited in District Savings Banks in the names of Minors. He said that deposits in District Savings Banks were often made by fathers on behalf of their minor children, and that hardships were sometimes caused by the impossibility (as the law stood) of providing thereout for the maintenance, clothing and education of these minors. The object of the Bill which he asked leave to introduce, was to legalize the repayment of these monies. It would be founded on the Statute 26 & 27 Vic., cap. 87, section 30.

The Motion was put and agreed to.

BRITISH BURMA SPIRITS DUTY BILL.

The Hon'ble SIR RICHARD TEMPLE also moved for leave to introduce a Bill for imposing a duty on certain spirits manufactured in British Burma. He said that the Excise Act, 1871, section twenty-one, imposed a duty of three rupees per imperial gallon on spirits manufactured according to the English process. This duty was not considered adapted to British Burma, where a heavy fee was charged for licensing distilleries in which spirits were so manufactured. That province was, therefore, expressly excluded from the operation of section twenty-one. It was now thought advisable to alter the local practice as to charging a license-fee, and to impose a duty on such spirits at a rate to be determined, from time to time, by the Chief Commissioner, but, of course, with the previous sanction of the Governor General in Council. The Bill would substantially consist of a clause conferring this power upon the Chief Commissioner retrospectively from the 1st April 1872, when the Excise Act came into force in British Burma.

The Motion was put and agreed to.

MADRAS DISTRICT MUNSIFS BILL.

The Hon'ble MR. POWHOUSE moved that the Hon'ble Sir J. Strachey be added to the Select Committee on the Bill to consolidate and amend the laws relating to District Munsifs in the Presidency of Fort Saint George.

The Motion was put and agreed to.

ARMS AND AMMUNITION BILL.

The Hon'ble MR. HOBHOUSE also moved that His Honour the Lieutenant-Governor and the Hon'ble Sir J. Strachey be added to the Select Committee on the Bill to consolidate the law relating to the manufacture, importation and sale of Arms and Ammunition.

The Motion was put and agreed to.

CHRISTIAN MARRIAGE BILL.

The Hon'ble MR. HOBHOUSE also moved that the Bill to consolidate and amend the law relating to the solemnization in India of marriages of persons professing the Christian Religion, be referred back to the Select Committee, and that the Hon'ble Sir J. Strachey and Major General the Hon'ble H. W. Norman be added thereto.

The Motion was put and agreed to.

PRIVY COUNCIL APPEALS BILL.

The Hon'ble MR. HOBHOUSE also moved that the Bill to consolidate and amend the law relating to the admission of appeals to the Privy Council be referred to a Select Committee with instructions to report in a month.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to consolidate and amend the law relating to the admission of appeals to the Privy Council—The Hon'ble Sir John Strachey and the Mover.

The Council adjourned to Thursday, the 20th June 1872.

SIMLA;
The 6th June 1872. }

WHITLEY STOKES,
Secy. to Govt. of India.