

Friday,
14th December, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

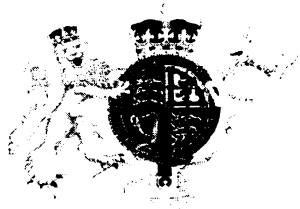
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ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1883

VOLUME XXII



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1884

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 14th December, 1883.

PRESENT :

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

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

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

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

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

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

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

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

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

The Hon'ble Durgá Charan Láhá.

The Hon'ble H. J. Reynolds.

The Hon'ble H. S. Thomas.

The Hon'ble Kristodás Pál, Raí Bahádur, C.I.E.

The Hon'ble Mahárájá Luchmessur Singh, Bahádur, of Darbhanga.

The Hon'ble J. W. Quinton.

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

The Hon'ble R. Miller.

The Hon'ble Amír Alí.

BENGAL REGULATION XIX OF 1810 REPEAL BILL.

The Hon'ble MR. ILBERT introduced the Bill to repeal Bengal Regulation XIX of 1810 within the territories administered by the Lieutenant-Governor of the North-Western Provinces, and moved that it be circulated for the purpose of eliciting opinion thereon.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the *North-Western Provinces and Oudh Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

BURMA COURTS BILL.

The Hon'ble MR. ILBERT also introduced the Bill to amend the Burma Courts Act, 1875, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Gibbs and Quinton and the Mover.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

INDIAN EMIGRATION BILL.

The Hon'ble MR. ILBERT also moved that the Report of the Select Committee on the Bill to amend the law relating to the Emigration of Natives of India be taken into consideration. He said :—

“This Bill proposes to re-enact, with numerous amendments, the existing Foreign Emigration Act.(VII of 1871). It does not apply to the emigration which takes place from one part of British India to another, whether by sea, as from Madras to British Burma, or by land, as from Bengal and the North-Western Provinces to Assam. Emigration by sea to British Burma was until recently governed by a special Act, but that Act has been repealed by an Act of the present year, and that form of emigration is now entirely free. Emigration to Assam and the adjoining districts is, as the Council are aware, governed by Act I of 1882. With this form of emigration we are not concerned at all to-day. Accordingly, we are not called upon to consider the difficult, interesting and important questions which arise in connection with inland emigration, such as the conditions and restrictions which it may be necessary to impose on the emigration of labourers to, or on their employment in, such regions as Assam, or the mode and extent to which it may be practicable or desirable to regulate, to facilitate or promote that great movement of population from one part of the Empire to another which has, for centuries, been operating, and still operates, to fill up and bring under cultivation the waste places of India. The present measure deals only with emigration to places outside the limits of British India, and the term “emigration” is defined by the Bill as meaning, for the purposes of the Act, the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the Island of Ceylon or the Straits Settlements. It will be observed that the measure does not affect

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

“What we are concerned with, then, to-day, is the emigration which goes on from India to certain British and Foreign colonies in the West Indies and elsewhere, and which is, as I have said, at present regulated by an Act of 1871. Proposals for amending this Act have for many years been before the Government of India, and at last resulted in the preparation of the present Bill, which was introduced into this Council in the year 1881, was circulated for opinion in the ordinary way, and was sent to England for consideration both by the India Office and by the Colonial Office. A number of objections were raised by the Agents and other representatives of the colonies to various provisions of the Bill; and the Government of India was asked by Her Majesty's Government to suspend legislation until the opinions of the Colonial Governments, to whom the Bill had been sent, should be received. I mention this circumstance in order to explain the delay which has taken place between the introduction of the Bill and the presentation of the Committee's report. The delay has not been unfruitful of good results. The Government of India thought that it afforded an excellent opportunity for ascertaining by local inquiry the way in which the system of recruiting emigrants is actually carried on in India, the respects in which the present system is capable of improvement, the attitude of the people towards emigration, and the possibility of making it more popular. Accordingly, with the consent of the Government of the North-Western Provinces, Major Pitcher was directed to make an inquiry in those Provinces into the points to which I have referred; and a similar inquiry was subsequently made by Mr. Grierson in Bihâr, at the wish of His Honour the Lieutenant-Governor of Bengal. To both those gentlemen—Major Pitcher and Mr. Grierson—we are deeply indebted for the admir-

able reports which they have sent in. Nothing is easier in this country than to collect opinions ; nothing is more difficult than to get at facts ; and it is as pictures of actual facts that these reports are so valuable. To quote the language of a Resolution which has been issued on the subject in the Revenue and Agricultural Department—

‘ They show in the clearest light the obstacles in the way of emigration, the difficulties with which even the most honest recruiter has to contend, and the extent to which popular prejudice can be allayed, or is unconsciously fostered by District-officers. Of such information there was much need. On the one hand, the Magistracy has been repeatedly charged with being hostile to emigration ; on the other, grave accusations have been often brought against recruiters. Proposals, on the one hand, have been made to surround emigration with additional precautions, and have been objected to on the other as unnecessary and ruinously expensive. To arrive at the real condition of things was extremely difficult. Major Pitcher’s and Mr. Grierson’s reports have at least facilitated a decision. They show that the recruiter, though occasionally guilty of malpractices in the exercise of what is looked upon by a large number of people as a not very reputable calling, has to contend with many unnecessary difficulties ; that he is frequently impeded in most objectionable ways by the police and the underlings of the Courts ; that the registration of recruits is not unseldom perfunctorily performed ; that unnecessary restrictions are sometimes imposed ; and that generally a more friendly attitude on the part of the Government as represented by its local officers would led to better results.’

“ In addition to the inquiries made by these two officers, meetings were held in Calcutta in February, 1882, and in March last to consider the various suggestions which had been made for amending the emigration law. Mr. Buck, the Secretary of the Revenue and Agricultural Department, presided at these meetings, and they were attended by the local Agents for the different colonies. I believe I am right in saying that the proposals which we are now laying before the Council have, after careful examination, obtained the full approval of these gentlemen, as well as of the officers of the Indian Government who are charged with the care of emigrants. In fact, I may fairly say that few measures which have been laid before this Council have been made the subject of more minute and careful enquiries than the present Bill. It is essentially a measure of details, and we have every reason for hoping that the machinery will work smoothly and well.

“ I have said that this is essentially a measure of details. There is, however, one important question of principle, which is discussed in the two reports to which I have referred, and about which, although it is not necessarily raised by the Bill, it may be as well to say a few words. It is this. What should be the attitude of the Government of India towards emigration to foreign countries ? Should they encourage it, discourage it, or remain neutral ? Both Mr. Grierson and Major Pitcher urge in forcible

language the expediency of the State taking a more active part than it has hitherto taken in the promotion of emigration. They consider that the people in the more closely populated districts should be encouraged to emigrate; that information about the colonies should be disseminated by Government officers; and that the advantages of emigration should be taught in village-schools. But Sir A. Lyall, the Lieutenant-Governor of the North-Western Provinces, whose opinion is entitled to the greatest weight, not only on personal grounds but because he is responsible for the government of the provinces from which the greatest flow of emigration takes place, is not prepared to go as far as this. He considers that measures such as have been suggested by Major Pitcher and Mr. Grierson might be misinterpreted, and he is doubtful whether emigration would benefit India as largely as is implied by their recommendations. He would, therefore, limit action for the present to removing all obstacles to emigration, to giving the people every facility to emigrate, and to strictly repressing the prejudiced opposition of the police and other Native subordinate officials. The question whether the one policy or the other should be adopted is not definitely raised by the present Bill, because it depends much less on the way in which the measure is framed than on the way in which it is worked; and this is a matter which the Government of India are disposed to leave very much to the discretion of the Local Government. My own opinion, I must confess, coincides rather with that of Sir A. Lyall than with that of the advocates of a more active policy. I think our attitude towards emigration should be an attitude of benevolent and watchful neutrality, and that our great object should be to secure fair play to both parties,—the employers on the one side, and the emigrants and their friends on the other,—to take care that the former are not hampered by unnecessary and vexatious restrictions, or impeded by unreasonable prejudices, and to protect the latter, so far as we can, against being entrapped or deluded into unfair bargains or carelessly or oppressively dealt with after they have left their homes. This appears, I may add, to have been the view taken by the Famine Commissioners. The present measure has been framed, if not in affirmation of, at least in complete accordance with this policy; and, whilst carefully providing for the protection of the emigrant, we have been equally careful not to throw any needless obstacles in the way of his employer.

“In order to explain the purpose and object of the several provisions which we have introduced into the Bill with this view, I must say something about the parties to the contract which is entered into by the person who emigrates within the meaning of this Act, that is to say, who departs by sea from British India under an agreement to labour for hire, and about the

several stages in his progress from his home to his place of destination. The parties to the agreement are, of course, the employer on the one hand, and the emigrant or intending labourer on the other. But from the nature of the case, these two parties are not brought into immediate contact with each other at the stage with which alone our legislation is capable of dealing. The employer is represented by the Emigration Agent for the colonies and by the recruiters acting under him; the emigrant is assisted, and to some extent represented, by the officers of the Indian Government, who are specially charged with his protection against fraud, negligence or oppression. As to the employer's representative, it must, in the first place, be remembered that it is not every colony or foreign country that is permitted to receive emigrants from this country. Emigration within the meaning of the Bill is only allowed to certain countries, of which a list will be found specified in a schedule to the Bill, and to such other countries as the Government of India may choose to add to the list. The Government may not make any such addition unless it is satisfied that the Government of the country has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to the colony during their residence there. Assuming that a colony is authorised to receive emigrants, it acts in this country through its Emigration Agent, who is appointed by the Government of the colony, but whose appointment is made subject to the approval of the Local Indian Government. Under the Bill as introduced, the Local Government was expressly empowered to revoke the approval; but this provision was strongly objected to by the Colonial Agents as derogatory to their position, and we have accordingly omitted it. Its insertion was perhaps due to excess of caution, for there is no reason to fear that any difficulty will arise from a Colonial Government insisting on the employment of an Agent whom our Government consider manifestly unfit to perform his duties.

“The Emigration Agent, then, is the principal official on the one side. The principal officials on the other are the Protector of Emigrants and the Medical Inspector of Emigrants, who are appointed by the Local Government and are stationed at the principal emigration-ports. The North-Western Provinces Government proposed that, with the view of securing uniformity of procedure in the various registering offices which are to be maintained under the Act, and of exercising a general supervision over recruiters, the Director-General of Agriculture and Commerce and his assistants in these provinces should be appointed Sub-Protectors of Emigrants. We entirely concur in these proposals, but at the same time we do not think it is necessary to make a special provision in the Bill for such appointments. We think that

uniformity of procedure in the registering offices can be secured by executive order. We believe that the Director of Agriculture and Commerce and his assistants will be able to exercise the necessary supervision over the conduct of recruiters if they are invested—as a provision of the Bill enables them to be invested—with the powers of a Magistrate under the Act.

“ Returning to the Emigration Agent. He conducts his local operations by means of persons called recruiters, who must on his application be licensed by the Protector of Emigrants. The license is good for a year, and under the Bill as introduced, it restricted the operations of the recruiter to a particular specified area. This restriction has, however, been objected to by the Emigration Agents (whose objections are supported by the Secretary of State for the Colonies) as unnecessary, and as tending to increase seriously the cost of emigration. We admit the force of these objections, and, accordingly, under the Bill as it now stands, the recruiter's license extends to the whole area over which the Protector of Emigrants has authority, but it is not valid for any particular district until it has been countersigned by the Magistrate of the district. The Magistrate is empowered to refuse his countersignature if he has reason for believing that the recruiter is an unfit person, or that he has failed to perform any of the duties imposed on him under the Act. At the time when the Bill was prepared great complaints had been made of the malpractices of a class of persons who were described as sub-agents. We were informed that between the Emigration Agent and the recruiter there is almost always a third party, the sub-agent, who supervises the recruiter's operation keeps his license, supplies him with funds, and generally keeps the depot in the recruiting centre where the emigrants are collected together before being sent down to Calcutta. This person, we were told, was unknown to and unregulated by the law, and was sometimes of very doubtful character. Accordingly, in the first draft of the Bill, clauses were introduced specially providing for the appointment and remuneration of this sub-agent. However, when we went more closely into the matter, it appeared that these provisions were not really applicable to the facts as explained by Major Pitcher and Mr. Grierson. It turns out that the so-called sub-agent is not a recruiter of any distinct class at all, but is merely a head recruiter who sometimes recruits himself, and sometimes acts as an intermediate contractor between the Emigration Agent and the ordinary recruiters, and whose remuneration naturally takes the form of a commission. And the conclusion to which we came was that it would be impracticable to draw a legal distinction between these sub-agent and other recruiters, and that it would be preferable to continue treating them as recruiters, and to make them take out a recruiter's license. But we have added to the Bill a definition of “ recruiter ” which makes it clear that the

term includes head recruiters and others who collect emigrants, as well as those who personally engage in recruiting.

“Such being the recruiter, we have to take great care that he does not enlist his emigrants on false pretences. Accordingly, we provide that he must get from the Emigration Agent on whose application he is licensed a written or printed statement, signed by the Agent and countersigned by the Protector of Emigrants, and stating the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants. This statement must be both in English and in the Vernacular, and the recruiter is bound to show it to any person whom he invites to emigrate, and also to Magistrate or officer in charge of a police-station, if called upon to do so.

“Having provisionally enlisted his recruits, the first thing that the recruiter does with them is to house them temporarily in a place which I referred to just now as depot, but which does not go by that name in the Bill. The fact is that the term “depot” is confined by the existing law to the depots which are established at the port of departure; and as we considered it inadvisable to disturb the existing nomenclature, we thought it better not to give any specific name to these up-country depots, if I may so call them. You will find them referred to in section 27 of the Bill as places for the accommodation of emigrants pending their registration or removal to the port of embarkation. Many complaints had been made about the way in which some of these places are kept and managed; and accordingly we have armed District Magistrates and other officers with extensive powers for their supervision and inspection.

“The mention of registration brings me to the next stage in the emigrants career. Up to this point he is not under any contract binding him to emigrate. In order to become so bound, he must appear before a registering officer, have his name and certain particulars about him entered in a register, and then, and not till then, is he allowed to execute an agreement to emigrate. Until these formalities have been complied with, the recruiter is not allowed to carry him off to the port from which he is to emigrate. In the provision relating to this branch of the subject, we have departed both from the existing law and from the proposals of the original Bill. Under the Bill as introduced, the work of registering had to be done by a Magistrate of a district or sub-division. The evidence collected by Major Pitcher and Mr. Grierson tends to show that these officers have not time to do the work thoroughly, and Major Pitcher has proposed Civil Surgeons, and Mr. Grierson the officers of the Registration Department as appropriate registering officers. The Government of

Bengal have accepted Mr. Grierson's proposals, and the Government of the North-Western Provinces is willing to give Major Pitcher's suggestion a trial whenever the Civil Surgeon is competent to do the work. The Bill does not decide the question either way, but merely gives the Local Government a general power to appoint persons to be registering officers, and places them under the control of the District Magistrate, or of such other officer as the Local Government may appoint on their behalf. I may explain that the reference to this "other officer" is intended to cover the officials whom the North-West Government wished to appoint Sub-Protectors of Emigrants. I understand that there will be no difficulty in adjusting, by means of executive arrangements, their relation to the District Magistrate.

"So much as to the officers who are to do the work. Next, as to the way in which the work is to be done. Mr. Grierson has told us in his report a great deal about the way in which the present system of registering emigrants works, or rather fails to work, and he has drawn up a statement showing, in two parallel columns, the difference between what may be called the theory and the practice of registration. This statement is so instructive and so illustrative of the kind of way in which administrative provisions are apt to break down, that I will take the liberty of reading it to the Council. The present system of registration, and the practice, are here given in parallel columns:—

*The system as ordained by law and by the
Bengal Rules.*

The practice.

1. The intending emigrant shall appear before a Magistrate, as defined in sections 3 and 85 of the Act.

The registering officer is rarely empowered under section 85.

2. The Magistrate shall examine the emigrant, and satisfy himself on three points, and on no more—

The registering officer frequently rejects recruits for other reasons, such as, for instance, that he has not been medically examined, or that he is telling lies about his address.

(1) that he is of age;

(2) that he understands the nature of his contract;

(3) that he is willing to fulfil it.

3. The Magistrate shall enter certain particulars in a book kept for the purpose.

The Magistrate rarely, if ever, does so. The recruiter brings him an illegible, misspelt form, continually full of mistakes, which is kept in a bundle in the office. When, in rare instances, a book is kept, it is not kept "for that purpose," but inland and colonial registrations are kept mixed up together.

4. A copy of every registration, written on substantial paper, shall be furnished by the Magistrate to the emigrant registered.

A copy (?) is furnished, but it is not certified or compared. It is brought ready written by the recruiter, being frequently illegible, misspelt and full of mistakes. It is almost invariably on paper of the flimsiest description—the kind of paper used for cheap overland letters. In some cases the copy is not given to the coolie, but to the recruiter !!

5. *Authentic* Copies of every such registration shall be *forthwith* forwarded by the Magistrate to the Emigration Agent.

This is hardly ever done. The recruiter brings another copy (?) similar to the above, which is signed by the Magistrate, but never compared. It is then usually returned to the recruiter.

6. And to the Protector of Emigrants.

Often not done. When it is, the copy (?) is another incorrect form filed by the recruiter.

7. A certain form of register is prescribed by the rules.

This form is sometimes not followed, and important columns, such as that for next-of-kin, are omitted.

8. Under the rules, monthly returns of emigration should be sent to the Protector.

In some cases these are not sent.

9. These returns should be correctly and intelligently filled up, as from them the figures for the Protector's annual report are drawn.

They are never correct. People are counted as emigrants who should not be counted, and *vice versa*: hence the Protector's and the district figures never agree, *e.g.*, in Alipore, the district figures, quoted (I believe) in the Annual Administration Report, gave in one case 1,500 when the Protector's were only 700. The Protector's figures were correct.

“ Now, I do not mean to say that our proposed system is certain to work quite smoothly and perfectly, nor can I feel sure that these, or indeed any other, legislative provisions will work precisely in the way in which we intend them to work. But at least we have done our best to take warning by what has been told us, and to devise a remedy for some of the most obvious defects in the existing system. In the first place, we propose to reverse the existing order of proceedings, and to make the registration come first and the execution of the emigrant's agreement afterwards. We think that there is a better chance of the agreement being accurate and satisfactory in form and substance if it is drawn out in the office of the Magistrate or other registering officer after the intending emigrant has been passed and registered, than if it is drawn up, as it is under the present practice, by some illiterate person beforehand. The course

of proceeding will be this. The recruiter will take his recruits before the registering officer, who in Mufassal may or may not be the Magistrate of the district, and in the emigration-ports will be the Protector of Emigrants himself. The registering officer is to examine the recruit, apart from the recruiter, with reference to the agreement into which he proposes to enter, and is to satisfy himself that the recruit is competent and willing to enter into the agreement, that he understands its nature, that he has not been induced to enter by any coercion, undue influence, fraud, misrepresentation or mistake, that its terms are in conformity with law, that is to say, contain all the particulars which, as I shall presently explain, it is required by the Act or rules to embrace and that it is in conformity with the statement which, as I have already explained, the recruiter is required to show the recruit. If he is satisfied on these points, he is to enter in a register-book the name of the recruit, and various particulars concerning him, including the name, sex, name of father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident. It may be asked, what is the use of entering all these minute details? I will let Mr. Grierson answer.

“The objects,” he says, ‘of a system of registration, I take it, are two-fold. One is to keep a record of the transaction, just as the record of any other contract is kept. This is a minor consideration. The other and more important object is to afford a connecting link between the coolie in the colony and his relations at home. A coolie communicates with his relations at home by means of letters and by means of remittances. His relations communicate with him by letter. Under a perfect system of registration a coolie ought to be able to send a remittance home to his friends, through the Emigration Agent and the Magistrate of his district, with the certainty of its reaching its destination; and a relation should be able to go to the Magistrate of a district and say, “My son emigrated in such-and-such a year; how can I send a letter to him?”’

“That is what we are anxious to do, to devise some means by which a coolie may be enabled to emigrate without being cut off completely from his relations and his home. And to this end we are endeavouring to supplement the improved system of registration, by giving effect to various suggestions which have been made for promoting a greater interchange of letters between the emigrants in the colonies and their friends at home, suggestions to which I need hardly say, full effect cannot be given without the co-operation of the Colonial Governments.

“When the intending emigrant has been duly registered, the next step is to execute the agreement, which is prepared in the office and executed both by the emigrant and the recruiter in the presence of the registering officer. It must contain on one side all necessary particulars as to the nature duration and term of the emigrant’s service, and, on the other, the particu-

lars which have been already entered in the register. These will enable him to prove his identity, if necessary. Three copies of the agreement are to be taken: one goes to the emigrant himself, the other to the recruiter, and the third is kept by the Protector of Emigrants. I need not follow in minute detail the subsequent movements of the emigrant. Suffice it to say that he is conducted to the emigration-depot at the port of departure, which is supposed to be under the constant supervision and inspection of the Protector of Emigrants and Medical Inspector, and after a short stay there is duly shipped off in an emigrant vessel. Every emigrant-vessel must be licensed, and the license must not be granted until the vessel has been surveyed and it has been ascertained that she is seaworthy, has proper and sufficient accommodation, is properly ventilated, has all the tackle, apparel and furniture requisite for her intended voyage, is properly manned and officered, and is, in fact, in all respects suitable for the carriage of emigrants. There is ample power to make rules as to the provisions, clothing, fuel and water which are to be supplied for the emigrants' use, and as to the staff of surgeons and attendants who are to be on board the vessel. And the Protector of Emigrants and the Medical Inspector are bound by the Act to see personally that these rules are complied with. The emigrant goes on board under their personal supervision, and the master of the vessel is required to execute a bond for the due performance during the voyage of the duties imposed on him by the Act. Thus every reasonable precaution is taken which our law can enforce that the emigrant shall be properly treated from the time when he leaves the place where he is recruited to the time when he lands in the colony for which he is bound. Further than this our law cannot follow him, and after this point we can only provide indirectly for his welfare by such influence as we can bring to bear on the Government of the country in which he has established himself. That influence is, however, of a very substantial kind, and may be enforced in extreme cases by the prohibition of emigration. There is a provision enabling the Governor-General in Council to prohibit emigration to any particular country on certain grounds which are specified in the Bill and which are as follows:—

- ' (a) that the plague or any other epidemic disease dangerous to human life has broken out in the country ;
- ' (b) that the mortality among emigrants in the country is excessive ;
- ' (c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein ;
- ' (d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country ; and
- ' (e) that the Governor-General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain

information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

“Such are the general provisions of this measure. The differences between the first draft of the Bill and that which is now before the Council are very fully and minutely explained in the Report of the Select Committee and I need not dwell on them further. It will be observed that the original draft of the Bill conferred on the Government extensive powers to make rules, and that we have in the present draft carried this power still further, by eliminating certain matters of detail from the Bill, and leaving them to be provided for by rule. I am sure that a measure of this kind, if it is to work well, must be made elastic, and that any attempt to fix and stereotype minute administrative details will probably produce either inconvenience or absurdities. Let me illustrate this from the English Emigration Law, of the working of which I happen to have some knowledge. The English Emigration Acts, of Passenger Acts as they are called, regulate with minute particularity the diet of the emigrant on boardship, even condescending to prescribe the precise amount of pepper which is to be served out to each emigrant every day. They were framed in the days of sailing-ships, when a voyage across the Atlantic was a long business, for which a considerable supply of salt-meat and other like provisions had to be laid in. A few years ago it was accidentally discovered that the steamers of one of the principal Atlantic lines, the *Cunard*, I think, were in the habit of complying with the requirements of the law by taking so many junks of salt-beef on each voyage from Liverpool to New York—and back again. Of course, nobody wanted it, no body ate it, but there it was to satisfy the law. It is matters of this kind that we wish to leave to be regulated by rules which can be easily changed on being found to be unnecessary or unsuitable. The new Act will not be brought into operation until the rules are ready, but I believe that this will not involve very long delay. I understand that Mr. Grierson, to whom I have so often referred, is now engaged, under the instructions of the Bengal Government, in the preparation of an Emigration Manual, which will contain, not only the revised rules and forms, but also such information as may be requisite for explaining the emigration-system to those who have to work it and those who are to be brought under it.”

The Motion was put and agreed to.

The Hon'ble KRISTODÁS PÁL said that the very full report of the Select Committee on this Bill, and the lucid statement made by the Hon'ble Member in charge of it, showed that it had received a careful revision at the hands of the Select Committee. It also evinced a benevolent solicitude on their part for the protection and welfare of the poor Native emigrant. The question of

the policy of emigration was not before the Council, and he would not, therefore, touch upon it. But it might be well asked whether, when large tracts of land lay unreclaimed and uncultivated in many parts of the country, undue encouragement should be given to emigration to foreign countries; but, as far as he understood the Bill, it would not give undue encouragement to such emigration. If he had understood his hon'ble friend correctly, he understood him to say that the Government occupied a position of neutrality, giving fair play to all parties who would come under the operation of the Bill. That, he thought, was a fair position, but all that he, as a Native of the country, wished to see was that the labourer who hired himself to go to foreign parts should on the one hand be treated as a free agent, and on the other should be protected from fraud, misrepresentation and oppression; and, if the Bill should attain that object, he thought the Council would have no reason to complain. Following the principle of the Bill, he ventured to propose with His Excellency's permission, a few small amendments. Care had been taken in the Bill to provide for the proper explanation to the intending emigrant of the nature of the agreement which he would be called upon to execute. He thought it was highly desirable that, in the initial stage of the engagement, the emigrant should have a clear idea of the nature of the life he was about to enter upon. As far as he could judge from the detailed provisions of the Bill, great precautions had been taken to explain fully to the intending emigrant the nature of the engagement. But at the most important moment, when he had to make up his mind, he was left almost in the dark. Section 26 of the Bill provided—

“The recruiter shall produce the statement for the information of every person whom he invites to emigrate, or when called upon to do so by any Magistrate or officer in charge of a police-station.”

Now, it was well known to Hon'ble Members that the emigrant was often an ignorant, illiterate person, unable to read the statement produced before him, and, if he asked the recruiter to read it, that man, if he was inclined to deceive him, might read a version not contained in the statement itself. So that, at the most important moment, when an illiterate emigrant was called on to make up his mind, he would be almost entirely in the dark as to what the contents of the statement might be, as to the character of the agreement, and as to the nature of the life he would be called upon to lead. He thought that at this stage it was of the utmost importance that every facility should be given to him to understand the nature of his engagement; and in that view he proposed that the recruiter should be required to furnish the intending emigrant with a copy of the statement, so as to enable the emigrant to take it home to show to his friends and relatives, or the village-headmen, and

consult them about it before making up his mind. He would be then in a position to know what he should do, and to understand the nature of the service required of him. He (RAJ KRISTODÁS PÁL) had heard some objections taken to his proposal. In the first place, it had been said that it would impose extra cost on the Emigration Agent. He believed that the statement would be a printed paper and the additional cost would be a trifle: if a hundred copies of the statement were struck off, it would entail only the cost of the paper and printing. Then he was told that the recruiter would have to carry a heavy bag of paper. Now, he did not know the exact number of emigrants recruited in each district, or in each sub-division, nor had he any idea of the exact number of recruiters employed in each district; but he could not believe that a recruiter on the average engaged more than 100 recruits; and, supposing that he did engage 200, his bag would not be at all heavy if he had to carry some 200 papers of this kind. But, even if the recruiter was put to some slight inconvenience, he thought it a question for grave consideration whether the emigrant should not have a fair opportunity of considering the nature of the connection he was about to form at the very outset of his new career—and surely this was of far more importance than the question of a little heavier bag on the back of a recruiter. Then he was told that this provision was not necessary and would impose an obstacle in the way of emigration. He, for one, did not see how this would prove an obstacle in the way of emigration. The more intelligently and knowingly the emigrant acted, the better would it be for the cause of emigration. He was aware that in section 37 there was a provision that a copy of the agreement when executed should be furnished to the emigrant. Now, this was an after stage. After the agreement had been executed it would be too late for the emigrant to recede, supposing that he wanted to change his mind, and supposing that he came to know what he did not know before. He humbly conceived that the proposal which he had submitted to the Council was calculated to give the intending emigrant an opportunity to understand his real position before he made up his mind, and it was therefore of great practical importance. Upon these grounds, he would move that for sub-section (3) of section 26 the following sub-section be substituted :—

“(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station when called upon to do so by the Magistrate or officer.”

The Hon'ble MR. QUINTON said :—“ While altogether sympathising in the anxiety of my hon'ble friend Raj Kristodás Pál Bahádúr that the intending emigrant should have full information as to the offers which the recruiter is

authorised to make, and should not be led blindly into binding himself by a contract of such serious importance, I am unable to support the amendment.

“It appears to me that the provisions of the Bill are amply sufficient to secure the object we both have in view, and that the proposals of my hon’ble friend go far beyond what is reasonably required for that purpose.

“My hon’ble and learned friend Mr. Ilbert in his opening speech has pointed out that the recruiter under the Bill must be furnished with a written or printed statement, signed by the Emigration Agent and countersigned by the Protector of Emigrants, in English and in the Vernacular language of the local area to which the recruiter’s license extends, of the terms which the recruiters is authorised to offer on behalf of the Agent to intending emigrants, and is also bound to produce the statement for the information of every person whom he invites to emigrate, or when called upon to do so by any Magistrate or officer in charge of a police-station.

“My hon’ble friend Raí Kristodás Pál is not satisfied with the production so enjoined, but would compel the recruiter to give to each person invited to emigrate a copy of the statement. Now, considering that probably not one per cent. of the persons likely to be so invited can read, this seems a very unnecessary precaution. The intending emigrant can procure full information as to the recruiter’s offers, by having the statement read and explained to him when he reaches the depot; and section 31, as we have heard, strictly enjoins on the Registering Officer the duty of examining the intending emigrant, apart from the recruiter, as to his competence and willingness to make the agreement, as to his comprehension of the nature of such agreement and as to his not having been induced to enter into it by unfair means. The Registering Officer must further draw up the agreement containing the particulars specified in the Bill, and furnish the emigrant with a copy of it. My hon’ble friend says that this will be too late; but, considering that the Registering Officer must ascertain from the emigrant that he understands and consents to the particulars contained in the agreement before it is drawn up, I do not see how this objection applies. He further urges that, if the man invited to emigrate gets a copy of the statement, he can take it home with him and consult the headmen of his village; to which I would answer that so long as their present attitude towards emigration is maintained by zamínárs, they are the last persons whom an intending emigrant would wish to consult.

“The story told by my hon’ble and learned friend of the salt beef carried from Liverpool to New York, and back again from New York to Liverpool, in order to comply with the English Passenger Acts, furnishes a warning against overloading our Bill with minute regulations. In my time I have registered, I suppose, several hundred emigrants, and the cases in which I have had to tell

one to stand aside, because he did not know where he was going or what he was to get were quite exceptional.

“When reading and writing become more widely diffused, and broad sides and hand-bills are likely to prove effective, the agencies will no doubt in their own interests readily adopt the latter; but, as things are at present, it appears to me unfair to impose on Agents and recruiters an obligation attended with considerable trouble and expense and enforceable by legal penalties, which is of no practical use.

“I may add that I have consulted friend Major Pitcher, whose thorough acquaintance with the working of the recruiting system renders his opinion of great value, and that he fully concurs in the views I have expressed.”

The Hon'ble MR. ILBERT said that, when the Hon'ble Raí Kristodás Pál first gave him private notice of this amendment, he expressed his entire sympathy with the object the Hon'ble Member had in view, namely, to give the fullest possible information to the intending emigrant of the kind of bargain he was about to enter into; and said that he would be willing to accept the amendment, unless it appeared that there was any objection to it on administrative grounds. On a question of this kind the opinions of a gentleman like Mr. Quinton, who had taken a practical part in the work of registering emigrants, and of Major Pitcher, were entitled to considerable weight; and he was bound to say, after having heard what his hon'ble friend Mr. Quinton had said, and after taking into consideration Major Pitcher's opinion, that his own view was that the amendment which had been proposed was on the whole likely to cause greater inconvenience than would be justified by any good which was likely to follow from it, and that the best way of giving an intending emigrant full information of the bargain he was about to make was to be found in that provision of the Bill which imposed on the Registering Officer the duty of ascertaining whether he really knew where he was going, and what was the kind of undertaking upon which he was about to enter. For these reasons only, MR. ILBERT personally should vote against the amendment.

The Motion being put, the Council divided:—

Ayes.

The Hon'ble Amír Alí.
 The Hon'ble Maharájá Luchmessur Singh,
 Bahádur, of Darbhanga.
 The Hon'ble Kristodás Pál.
 The Hon'ble H. S. Thomas.
 The Hon'ble Durgá Charan Láhá.
 The Hon'ble W. W. Hunter.
 The Hon'ble T. C. Hope.
 The Hon'ble Sir S. C. Bayley.
 His Excellency the President.
 631 L. D.

Noes.

The Hon'ble R. Miller.
 The Hon'ble T. M. Gibbon.
 The Hon'ble J. W. Quinton.
 The Hon'ble H. J. Reynolds.
 The Hon'ble Sir A. Colvin.
 The Hon'ble C. P. Ilbert.
 Lieutenant-General the Hon'ble T. F. Wilson.
 The Hon'ble J. Gibbs.
 His Excellency the Commander-in-Chief.

The numbers being equal, the President gave his casting vote with the ayes.

So the Motion was carried.

The Hon'ble RAJ KRISTODÁS PÁL moved that in section 36, after the words "and term of service" the words "and the remuneration" be inserted. He said that his object in moving the amendment was this. When a man expatriated himself from his country for service in another country, he ought to know what he would earn there. The Bill gave him no information on that subject. It was true that the Bill provided for the passing of rules by Government, which, amongst other particulars, might include information as to the amount of wages; but he thought it was of the utmost importance that the Bill should specifically provide that the emigrant should be informed, even if approximately, of the wages he was to receive before he executed the agreement.

The Hon'ble MR. ILBERT said he was quite willing to accept this amendment. The Bill as originally drawn provided that the agreement should specify the daily or monthly wages the emigrant was to receive. But when the Select Committee came to consider how the form provided for the purpose should be filled up, they found great difficulty in cases in which the labourer was paid by the piece or the job, and accordingly they omitted the reference to wages, and merely provided that the agreement should provide the nature and terms of the service to be performed, and they intended that the information on this point should include, as far as possible, the remuneration he was to receive.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT said that, with the permission of the Council, he would ask leave to move a small amendment in section 71 of the Bill. As he had not given notice of the amendment, he was entirely in the hands of the Council as to whether or not he should move it. The amendment was this, that in section 71, for the word "proceeding" the words "embarking at that port" be substituted. The Bill was framed on the assumption that all the emigrants who were to go by a particular emigrant-vessel would be shipped at the same port; but it had been brought to the notice of the Government that it might be convenient in some cases for a vessel proceeding from Calcutta to stop at Madras and ship emigrants there. So far as he could judge, none of the provisions of the Bill would prevent this being done. The only difficulty which he thought might arise was in connection with some of the terms of the certificate to be given under the Act. Section 71 required a certificate from the Protector of Emigrants and the Emigration Agent for the country to which the

emigrants were to be conveyed, to the effect that they had, in respect of all the emigrants proceeding in the vessel, done all that was required by the provisions of the Act, or by the rules made under the Act, to be done by the Protector and Agent respectively; and a technical difficulty might arise as to compliance with this requirement of the law. Therefore, he proposed that the certificate should not be in respect of all the emigrants "proceeding in the vessel," but only in respect of the emigrants embarking at the port to which the Protector and Agent belonged.

The Motion was put and agreed to.

The Hon'ble RAJ KRISTODÁS PÁL moved that for clause (b) of section 83 the following clause shall be substituted:—

"(b) fails to give a true copy of the statement with which he is provided under section twenty-six to any person whom he invites to emigrate."

He said that, as the first amendment imposed an obligation on the recruiter, it was necessary that there should be a penalty attached if the obligation was not fulfilled.

The Hon'ble MR. ILBERT observed that he thought this amendment was a necessary consequence of the amendment which had already been carried, and he had, therefore, no objection to offer.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT move that the Bill as amended be passed.

The Hon'ble MR. AMÍR AÍ expressed the satisfaction which was felt among all classes of the Indian community with this measure. The hardships to which emigrants were subjected, and the false representations of which they were very frequently victims, made some such measure absolutely necessary; and he had no doubt that, when this measure was passed, it would be regarded as a great boon by the classes which it would affect. There was, however, one point regarding which he entertained considerable doubts, and these doubts, he should also add, were to some extent shared by some of the leading members of the Native community. The point to which he referred was as to the limit of age contained in section 39 of the Bill. He mentioned his views to the hon'ble and learned member in charge of the Bill, and he learned from him that the matter had received careful consideration in the Select Committee, and therefore he was constrained to come to the conclusion that he would not be justified in raising a discussion on it at the present stage of the Bill.

The Motion was put and agreed to.

RANGOON TRAMWAYS BILL.

The Hon'ble MR. ILBERT also moved that the Report of the Select Committee on the Bill to authorize the making, and to regulate the working, of Street Tramways in Rangoon be taken into consideration. He said that this Bill was prepared for the purpose of giving effect to an agreement entered into between the municipality of Rangoon and Mr. Darwood, for the purpose of making street tramways in the town of Rangoon, on the understanding that all the roads were situated within municipal limits. But the Government had since been informed that part of one of these roads lay not within municipal limits but within the military cantonment. The simplest way to meet the difficulty, the Committee considered, was to add a section to the Bill providing that all the roads specified as roads over which tramways were to be constructed should, for the purposes of the Act and of the agreement, be deemed to be situate within the municipality, and they had accordingly added a section to that effect. The other amendments made by the Committee in the Bill were of a very trifling nature, and he need not allude to them.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that, in section 16, for clauses (b) and (c), the following be substituted, namely :—

“(b) does anything in such a manner as to obstruct any carriage using any such tramway; or

“(c) abets, within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (a) or clause (b).”

He explained that the amendment was of a merely formal character.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. ILBERT also moved that the Hon'ble Mr. Gibb's name be substituted for Sir S. Bayley's as a member of the Select Committees on the following Bills :—

To amend the law relating to Local Self-government in British Burma.

To amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879.

The Motion was put and agreed to.

SUCCESSION CERTIFICATES BILL.

The Hon'ble SIR A. COLVIN moved that the Hon'ble Mr. Gibbs' name be substituted for Sir S. Bayley's as a member of the Select Committee on the Bill to amend the law relating to certificates granted under Act XXVII of 1860 (*an Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.*)

The Motion was put and agreed to.

The Council adjourned to Friday, the 21st December, 1883.

D. FITZPATRICK,

*Secretary to the Government of India,
Legislative Department.*

FORT WILLIAM; }
The 21st December, 1883. }