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ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS.

1880.

WITH INDEX.

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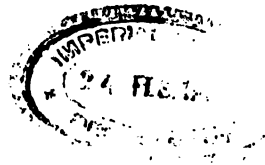
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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 10th September 1880.

P R E S E N T :

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

His Honour the Lieutenant-Governor of the Panjáb, K.C.S.I.

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

The Hon'ble Sir J. Strachey, G.C.S.I., C.I.E.

General the Hon'ble Sir E. B. Johnson, R.A., K.C.B., C.I.E.

The Hon'ble Whitley Stokes, C.S.I., C.I.E.

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

The Hon'ble C. U. Aitchison, LL.D., C.S.I.

The Hon'ble B. W. Colvin.

The Hon'ble C. Grant.

CENSUS BILL.

The Hon'ble MR. GRANT introduced the Bill to provide for certain matters in connection with the taking of the Census, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes, Aitchison and Colvin and the Mover. He said that in asking for leave to introduce the Bill he had proposed to defer the detailed consideration of its provisions until the time came for introducing it; he would therefore preface his present motion with such remarks as seemed necessary; but the Bill was a short one, and what he had to say would be brief also.

The main object of Census-legislation was of course to bring into proper relations with each other the enumerators and the enumerated, that is, to give to the former suitable powers for counting, and to require from the latter reasonable facilities for being counted. Accordingly, the Bill was occupied mainly with these two subjects, or rather two branches of the same subject. Section 3 of the Bill began by declaring that a Census-officer was—

“any person appointed by the Local Government, by name or in virtue of his office, to make or aid in or supervise the making of, the census within any specified local area.”

He (MR. GRANT) feared that there had been an omission here. In many parts of India, notably in Bengal, the census of 1871 was conducted very

largely by the aid of unpaid and unofficial persons, and it would be impossible to expect any Government to appoint by name every single member of an enumerating staff numbering perhaps thousands. The system was, however, one to which every legal facility should certainly be given, for it was said to have worked admirably in Bengal. By choosing the more influential and respectable residents in villages to conduct the enumeration, the risk of fraud had been reduced to a minimum, and a feeling of confidence had been established among the people which went far to guarantee them against unreasonable panics. On this subject the Superintendent of the Bengal census wrote—

“The experiment undoubtedly was a hazardous one, but the event has proved that the anticipations of Government on this score were not unfounded. The office of Enumerator has for the most part been sought after and coveted, many of those who were passed over or rejected having represented the circumstance to the District Officer as a grievance.”

And he added—

“Public confidence was at once restored when it was seen that each village through its representatives was left to make its own return.”

It would therefore be for the Select Committee to determine whether this section should not be extended by authorizing the Local Governments to delegate their powers to such person or persons as they might think fit. Provision having thus been made for the selection and appointment of Enumerators, sections 6, 7, 8 and 9 described the powers of Census-officers and the liabilities imposed on the people for the purpose of carrying out the work of enumeration. Section 6 empowered the Magistrate of a district to call upon all landholders, farmers and others to give assistance to the Census-officer. The history of past censuses gave us no reason to anticipate anything like active opposition; and, as in nearly every part of India at least one census had been taken, it might be hoped that the enumeration would no longer be so formidable and strange an operation to the people as it undoubtedly had been at first. But over so large an area, and among so timid a people, it was scarcely possible to hope that some unreasonable panics should not occur, and therefore it was desirable to give Census-officers every reasonable aid which the law could provide.

The history of the census of 1871 in Bengal gave a very good account of the kind of panics to which the people were liable at such times. The most common ground of apprehension was that the census was a mere preliminary to fresh taxation, and this feeling made itself manifest, not only in Bengal, but in all parts of India, except in Burma, where the people paid a poll-tax already and therefore had nothing more to fear on that account. Another very general

impression was that men were being counted in order to be enlisted in the army, though the same feeling which led members of the unwarlike races of Bengal to dread military service might have put it into their heads to reflect that they would not be much valued as soldiers. A similar story got about with regard to women, who believed that they were to be taken as wives for soldiers, though it must have been pretty generally known that the wives of European soldiers were not generally taken from among the daughters of the soil. But it was unnecessary to look for the reasons of perfectly unreasoning panics, and, indeed, in this instance the apprehension was a very real one; for in Oudh many girls were hidden away for fear of being captured. An even more exaggerated and fantastic form of the same legend gained currency in one district of Bengal, where it was rumoured that all marriageable girls were to be taken down to Calcutta, there to be made over to some General Sáhib whose name had not transpired; and he found that even Her Gracious Majesty herself had not been altogether spared; for she had been credited with sending for a number of young virgins, to fan her in what was apparently supposed to be the hot climate of England. But the most absurd rumour of all was one which obtained circulation in Travancore, where it was believed that a compact had been entered into between the Maharájá and the Viceroy that the Maharájá should supply a certain percentage of his subjects to be given to a monster whose food was human flesh and blood, and who, in return,—so we were told—evacuated large quantities of gold bullion.

Every attempt had, of course, been made to explain the real objects of the census, but he fancied that in many cases the official explanations had been found too prosaic to make their way home. In the Central Provinces Report, for instance, he read that one of the Census-officers, finding it perfectly hopeless to obtain credence for his explanations, tried the effect of invention, and gave out that the Czar having boasted of the number of his subjects, Queen Victoria determined to show that she had still more, and with this object instituted a census. This explanation seemed not only to have been accepted by his auditors, but to have spread through the country, and to have given very general satisfaction.

Section 9 provided that—

“Every person occupying any house, enclosure, vessel or other place shall allow the Census-officers such reasonable access thereto as they may require for the purposes of the census.”

This authority had been conveyed in somewhat wide terms, and it was certainly one which was liable to be misused, and which, therefore, should be carefully watched in its exercise. It was, however, impossible in a legislative enactment of this kind to tie down the executive very closely; and it would rest

with the administrative authorities to see that the powers thus given were not abused. It was obvious that a census could not be properly taken unless the Enumerator had the power of going into houses and verifying the returns for himself; and, indeed, in Madras the returns of two districts had been largely vitiated by attempts to dispense with personal enquiry. In these cases, however, the blame lay, not with the householders, but with the Enumerators themselves, who were mostly high Bráhmans and feared to incur defilement by going into the houses of low-caste people. They had therefore contented themselves with throwing the census-papers over the walls of the enclosures, and the result was that the number of women enumerated in these two districts, Bellary and Caddapah, was very disproportionate to that of men; and the census-returns were, of course, comparatively valueless.

In section 10 a penalty was provided for misconduct on the part of Census-officers. There was no reason to suppose from past experience that this provision would be very generally required,—more particularly if, as in Bengal, the people were encouraged to count themselves; but where, as in Oudh, it was found necessary to let loose on the country a swarm of men on low pay, and selected for no qualification except the power of reading and writing, it was unreasonable to suppose that so good an opportunity would not be taken of reaping a harvest. It would be observed that this section was intended to meet cases for which the Penal Code did not provide, and therefore all that the law could do to check such abuses had been done.

Section 12, the last section of the Bill, provided that—

“no entry in any book, register or record made by a Census-officer in the discharge of his duty as such officer shall be admissible as evidence in any judicial proceeding.”

That provision was inserted in consequence of a suggestion made by the Secretary of State, who had been informed that, in former censuses, inconvenience had been caused by such records having been called for by Courts of Justice.

MR. GRANT had nothing more to say on the details of the Bill. As it stood it might be regarded as little more than a mere sketch, to be filled in, if necessary, by the suggestions which he hoped to obtain from Local Governments and the Select Committee. Fortunately, past experience showed that no elaborate system of restriction would be needed for the purposes of enumeration. What had really to be overcome was, not a spirit of opposition, but ignorance and timidity, and that could best be met by sensible, sympathetic and conciliatory administration.

His Excellency THE PRESIDENT presumed that, if the Bill passed, the Home Department would issue a circular pointing out the mode in which the powers under the Bill were to be exercised.

The Hon'ble MR. GRANT replied in the affirmative.

The Hon'ble MR. STOKES remarked that section 9 seemed to require an addition providing for cases of zanánas, as was done both by the Criminal Procedure Code, section 384, and the Code of Civil Procedure, section 271. As the section now stood, although the words "reasonable access" were used, there was, in his opinion, nothing to prevent a Census-officer from forcing his way without notice into an apartment in the actual occupancy of a woman who, according to the customs of the country, did not appear in public. This was certainly not intended.

His Excellency THE PRESIDENT remarked that that was a matter which certainly ought to be provided for.

His Honour THE LIEUTENANT-GOVERNOR inquired if there was no provision for persons who accepted schedules to be filled in, to oblige them to fill them in accurately. The Bill empowered the Census-officer to ask questions, but it did not oblige the person who took the Census-paper to fill it in correctly.

His Excellency THE PRESIDENT remarked that section 8 obliged persons to answer such questions as were put to them by the Census-officer.

His Honour THE LIEUTENANT-GOVERNOR said that that was different from filling up a return.

The Hon'ble MR. STOKES said that he had suggested the insertion of a clause to the effect indicated by His Honour the Lieutenant-Governor; there were clauses like it in recent Acts of Parliament relating to censuses; but he understood that it had been deliberately omitted by the Hon'ble Member in charge of the Bill.

The Hon'ble MR. GRANT explained that the reason was that the ordinary enumeration would be conducted by Census-officers and Enumerators appointed by Government, and that people would only be allowed to fill up their own schedules as a special privilege. It was, therefore, not thought necessary to provide penalties on this account; but if they were found necessary they could, of course, be added.

The Hon'ble MR. GIBBS remarked that in Bombay and large towns, when a census was taken, the forms were merely left at houses and the people asked to fill them in and return them.

The Hon'ble MR. GRANT observed that provision had been made for private enumeration in the Bombay rules ; but, as he had said before, such enumeration would only be allowed to persons qualified and willing to undertake it. Of course, if that system were largely extended, it might be necessary to impose penalties on persons declining to fill up schedules, as suggested by Sir Robert Egerton.

His Excellency THE PRESIDENT observed that the point was worthy of consideration.

The Hon'ble MR. GRANT agreed with His Excellency and said that it would be considered by the Select Committee.

The Motion was put and agreed to.

The Hon'ble MR. GRANT also moved that the Bill be published in the local official Gazettes in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

PEGU AND SITTANG CANAL BILL.

The Hon'ble MR. ARCHISON introduced the Bill to regulate the navigation of the Pegu and Sittang Canal, and to provide for the execution of works necessary to its maintenance, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes, Colvin and Grant and the Mover. He said that when he moved for leave to introduce the Bill he gave a brief description of the clauses which it was proposed to insert in the Bill, so that he had very little now to add. The Bill was based on the Northern India Canal and Drainage Act of 1873, and the preliminary provisions,—those relating to the levy of tolls, and those giving power to enter upon private lands, subject to payment of compensation for any damage done—did not seem to call for any explanation. Sections 14 to 17, however, appeared to call for some remark. Those gave to the executive officers in charge of the canal the power to obtain forced labour and to take materials for the use of the canal. The power was, no doubt, an unusual one, but there were precedents for it both in the Northern India Canal and Drainage Act, the Burma Embankment Act and elsewhere.

The Hon'ble MR. STOKES observed that Act I of 1858 legalised, in the Presidency of Fort St. George, compulsory labour for the prevention of mischief by inundation, and provided for such labour on certain works of irrigation.

The Hon'ble MR. AITCHISON continued :—

It was a power which would not have been taken had there not existed a real necessity for it—a necessity arising from the fact that in Burma there were often very sudden and heavy floods by which the canal and its embankments were liable to be very seriously breached to the danger of life, and great damage both to public and private property. The population on the banks of the canal was scanty, and the disposition of the Burmese was such that very often people might not be disposed to move even to prevent a calamity. His Excellency the President would observe that the power was fenced round with a great many precautions. Advantage could not be taken of those sections except under the written order of the Canal-officer ; this order could only be issued when the damage threatened to the canal was serious, and sudden and public injury was likely to result, and when labour and materials could not be otherwise procured in sufficient time to prevent serious injury ; when persons were detained for such labour, or material taken, the highest market-rates would be paid by the Canal-officer for such labour and materials. Then there was another check,—that the Canal-officers were not at liberty to call on any person to labour ; but the District-officers, who were independent of the Canal-officers, would prepare lists of persons liable to serve, and no one whose name was not on such lists could be called on by the Canal-officer to labour on the canal. Those lists would be prepared under rules framed by the Chief Commissioner, which would first receive the sanction of the Governor General in Council.

MR. AITCHISON thought that with such precautions there was little chance of the powers under the Bill being abused, and he presumed that there would be no objection to the adoption of a provision which had been accepted by the legislature in similar cases elsewhere.

The Motion was put and agreed to.

The Hon'ble MR. AITCHISON also moved that the Bill be published in the *British Burma Gazette* in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

MADRAS PORT-DUES BILL.

The Hon'ble MR. GIBBS introduced the Bill to enhance the rate of Port-dues leviable at Madras, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes and Grant and the Mover. He said that the observations which he had made when he asked for leave to introduce

the Bill seemed to be quite sufficient to explain its objects. He would merely add on the present occasion that the manner in which legislation was intended to be carried out was by the amendment of the Indian Ports Act of 1875.

The Motion was put and agreed to.

The Hon'ble MR. GIBBS also moved that the Bill be published in the *Fort St. George Gazette*, the *Bombay Government Gazette*, the *Calcutta Gazette*, and the *British Burma Gazette*, in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

INDIAN GOVERNMENT SECURITIES BILL.

The Hon'ble MR. STOKES asked leave to postpone the motion for leave to introduce a Bill to provide for certain matters relating to securities of the Government of India.

Leave was granted.

The Council adjourned to Friday, the 24th September, 1880.

SIMLA ;
The 10th September, 1880. }

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.