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COUNCIL OF GOVERNOR GENERAL
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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.

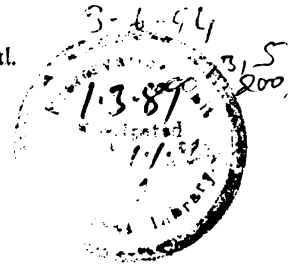
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1882.

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, Simla, on Wednesday, the 7th September, 1881.

P R E S E N T :

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

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

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

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

The Hon'ble Rivers Thompson, C.S.I., C.I.E.

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

Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.

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

The Hon'ble C. Grant, C.S.I.

SINDH INCUMBERED ESTATES BILL.

The Hon'ble MR. GIBBS moved that the Report of the Select Committee on the Bill to amend the Sindh Incumbered Estates Act, 1876, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. GIBBS also moved that the Bill as amended be passed. He said that it would be in the recollection of the Council that this Bill was introduced at the request of the Bombay Government, who found that in the practical working of the Sindh Incumbered Estates Act some difficulties had arisen, more especially with regard to the way in which the loans advanced by the Government to enable debts to be paid should be repaid; and there was also another point put forward, namely, that owing to certain circumstances, partly from ignorance and partly from other causes, some of the jágirdárs had not come forward within the time originally provided for in the first Act, and it was therefore necessary that an extension of six months should be given. Those were the two principal points on which the Bombay Government had asked us to pass an amending Act. The legislation

was agreed to by His Excellency the President, and a short Bill was prepared and referred to a Select Committee, and sent down to Bombay. The Select Committee had considered the reports received from the Bombay Government and the officers who had the working of the Act, and had come to the conclusion that it was not advisable to adopt the proposal of the Bombay Government, namely, that the Act should distinctly lay down that such loans should be a first charge against the monies collected from the estate, but that it was better to leave the matter in the hands of the local Government to make the arrangement in whatever way they liked. The Committee thought there might be cases in which it would be just and equitable that the repayment of the loan should be the first charge upon the estate, but in others it might not be so, and therefore that it would be better to leave it to the discretion of the local Government. With regard to the extension of the six months clause, there was no doubt about that. The Select Committee further thought that, in order to make the matter more clear and prevent any possible error in applying the modifications in the Bill as drafted to the original Act, it was better to repeal the original Act *in toto*, with the exception of the last three clauses which related to another matter, and re-enact the measure with the modifications agreed to by the Select Committee. That has been done, and the new Bill, including the old Act with the amendments, had been circulated to the Council. It had not been considered necessary to republish the Bill in the amended form or to send it down to the local Governments. It was simply a matter of drafting and made no difference in the provisions which had been decided upon as necessary to make the Act more workable. The Council would find that the alterations which had been agreed to by the Select Committee were, first of all, in section 4, in which, as it now stood, at any time within six months after the passing of this Act, any *jágrdár* who had not yet come in and taken advantage of the measure might do so. The next alteration was in the eighth section as it would be found in the amended copy of the Bill circulated to the Council this morning. In the previous draft, in the third line, the following words occurred: "and to the amount of any loan which may be received by the manager from Government." Instead of these the amended clause of this section would run thus: "and to the amount of any loan which may be received by the manager."

The next clauses in which there was any alteration occurred in sections 11, 17 and 18, which applied to the liquidation of the Government loan. Those were now drafted in a way which left it to the local Governments, and also to the Commissioner in Sindh, who was the immediate superior of the manager, to arrange for the repayment of the Government loan, making it either a first charge or a subsequent charge as they thought fit. There was also a slight change with regard to the manner of fixing the rate of interest, and it would be left to the option of the local Government as to what rate should be

charged. Then there was an amendment in section 24 of the Bill, to which the following clause (c) had been added :—

“(c) by borrowing money from Government at such rate of interest as appears reasonable to the local Government.”

This was a new clause to make the matter more clear. In section 26 provision was made to keep the management in the hands of the manager until the debt to Government had been repaid; that was not provided for in the original Act, and the consequence was that the only means of securing the repayment of the loan was by taking a mortgage of each estate. That was an extremely cumbersome arrangement, and therefore it was thought better to provide that the management should continue till the debt had been paid. This would form the security to Government for the advances they made. Thus, in order to arrange for the repayment of the loan and to give the Government fuller powers to make the arrangement already explained, the alteration was made by the addition of clause (c), to section 31. These were the alterations made to carry out the required modifications to make the working of the Bill more simple. In conclusion he (MR. GIBBS) might state that no opposition had been made to the Bill, which had been published in the local Gazette, and that no communication had been received from any of the public in the matter.

The Motion was put and agreed to.

BROACH AND KAIRA INCUMBERED ESTATES BILL.

The Hon'ble MR. GIBBS moved that the Report of the Select Committee on the Bill to amend the Broach and Kaira Incumbered Estates Act, 1877, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. GIBBS then moved that the Bill as amended be passed. He said that the observations which he had made with regard to the Sindh Bill applied equally to the Broach and Kaira Incumbered Estates Act. The alterations in both were of a similar nature. The Bombay Government, on reference from this Government, had reported that it was necessary also in this Bill to provide for an additional six months' term for people to come in.

The Motion was put and agreed to.

INLAND EMIGRATION BILL.

The Hon'ble MR. RIVERS THOMPSON introduced the Bill to amend the law relating to Emigration to the Labour-districts of Bengal and Assam, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Stokes,

Major the Hon'ble E. Baring, the Hon'ble Mr. Grant and the Mover. He said :—“The Bill which I now present is intended to repeal Act No. VII of 1873, an Act which was passed by the Bengal Legislature. Ordinarily it would have been left to the Bengal Council to deal with this amending or repealing Bill, but there are two reasons which have led us to undertake the legislation here. The first is that since 1873 Assam has been separated from the Bengal Administration, and become a separate province directly under the Government of India; and, secondly, there are provisions in the Bill which affect the North-Western Provinces; and under these circumstances it was necessary that legislation should be undertaken in this Council. As I have before stated, our labours in legislating upon this subject have, in a very material degree, been assisted by the fact that the whole subject has been thoroughly investigated by an able and experienced Committee in Calcutta; and perhaps I have not sufficiently expressed the obligation which the Government owes to the members of that Committee, and especially to that element in it which represented the non-official and mercantile community who have not only devoted to the consideration of the subject much valuable time, but have brought to bear upon its discussion a great deal of practical experience and information.

“In the Statement of Objects and Reasons which accompanies the Bill will be found a full exposition of the leading features of the present measure; which, it will be seen from the marginal notes attached to the Bill, runs generally upon the lines of the law now in force and the recommendations made by the Calcutta Committee. If the Bill which I have the honour to present differs to some degree in the arrangement of its chapters, and in its form, I think I may say that there are only a very few material points of difference in substance, and I shall probably satisfy the requirements of the present occasion if I call the attention of the Council to those points.

“The subject divides itself naturally into three principal divisions: first, those which are covered by Chapters III and IV, relating to the system of recruitment; Chapter V, which refers to the transport by river of emigrants to the labour-districts of Assam; and Chapter VI, which is connected with the whole question of the protection of the labourer when he has reached the tea-estate. The principal changes which have been made in the Bill are as regards the system of recruitment, which it will be noticed is subdivided into two branches—one referring to recruitment by contractors and sub-contractors, and the second to the practice of recruiting by garden-sardárs and local agents.

“The system of recruitment through contractors is the one which has generally obtained since the first introduction of a regulated emigration to the province of Assam. It was favoured by Government as securing a more direct

supervision in the interest of the emigrant; and it was more convenient to the planter at a time when the means of communication in India were not so easy and rapid as in the present day. The local supply of labour in Assam has always been inadequate for its ordinary wants; and when the large tea-industry became established, the importation of foreign labour became a necessity. Accordingly, when a company engaged in tea plantation required labourers, the procedure adopted was to indent on contractors, who had established depôts in Calcutta, to send up as many coolies as employers wanted. These contractors engaged emissaries or recruiters to go into the distant mufassal districts where labour was available, and to collect the required number of men. Obviously, the delays in such a system were great, and they were increased by the necessity of bringing the men down to Calcutta, housing them in depôts, and subjecting them to all sorts of official and medical inspection before they could be forwarded to their destination. Apart from the great inconveniences arising from the delay, the expense involved in these arrangements was considerable; and, accordingly, when the law of 1873 was under discussion in the Bengal Council, a new principle was introduced to enable planters to make their own arrangements for the supply of coolie labour; and so what is now well known as the garden-sardârî system of recruiting formed part of the measure which became the Labour Districts Emigration Act of 1873. There can be little doubt that this system of recruiting is much more in favour with the planters than the old one of working through contractors established in Calcutta; and one of the main objects of the Bill now under notice is to place it on a wider or freer basis. I may be allowed to explain that the garden-sardârs are always labourers who have been employed for some time in the tea-gardens of Assam and have thus gained a good deal of experience of the kind of work which the tea-plantations require. They have come to know the advantages of obtaining regular pay and a fairly good position in the Assam districts; and having established satisfactory relations with their employers, are deputed by them to proceed to their native villages and districts for the purpose of procuring there the kind of labour which is best suited for the work on tea-estates. But when I say that this practice was introduced in 1873 I have also to add that it was subjected, as was not unnatural on the first introduction of a novel experiment, to certain restrictions and limitations. The object of the present Bill is, as I have said, to withdraw to a large extent those restrictions, and I will briefly state the amendments which are proposed in this direction. Under the law as it now stands the garden-sardâr is compelled to present himself at the Court of the Magistrate of the district where he proposes to engage labourers that he may get his certificate countersigned. The present Bill does away with this provision. Seeing that the garden-sardâr before he starts on his mission receives from his employer the written authority and instructions under which he is to act, and these are certified before a Government officer in Assam, the

necessity for further restriction in the matter seems uncalled for. Then, the certificate of the garden-sardár under the present Act is limited to six months' duration; and as it has been represented that within six months the work which the garden-sardárs have to do can often not be got through with sufficient completeness, the Bill proposes to extend the time during which the certificate is to be in force to one year; and in order to enable the employer to secure the continuance of the engagement of trustworthy agents, it provides for the renewal of existing certificates without requiring the personal attendance of the agent.

“Then, again, and this is perhaps the most important point in the amendment proposed under the law as it now stands, the garden-sardár cannot take with him more than twenty coolies. He was limited to that number by the Act of 1873, because in the difficulties of communication with Assam at that period it was not considered safe to entrust to a single man in the position and class which a garden-sardár would occupy the responsibility of conveying a large number of recruits dependent solely on his resources to carry them over very long distances. It has been found, however, that this restriction operates with some severity upon employers, who have to advance a good deal of money in detaching these sardárs to such duties; and as now interprovincial communications are fairly well established and are improving every day, the limitation imposed by the present law may be safely and advantageously removed; and the Bill therefore proposes to leave the number unlimited. Speaking generally of the changes under this part of the Bill, in the Statement of Objects and Reasons it is said:—

“ ‘Such restrictions, besides unnecessarily impeding the garden-sardár in his operations, bring him into dangerous connection with contractors and recruiters, who not unfrequently tempt him to make over to them, for a consideration, labourers recruited at his employer's expense. The Bill severs all connection between garden-sardárs' and contractors' depots; and, though providing, in the employer's interest, for the effective control of garden-sardárs when on recruiting duty, removes the restrictions above mentioned, and gives the widest scope to the working of the sardári system.’

“I believe these proposals will be regarded with satisfaction by all large employers of labour in Assam.

“On one point, with reference to this system of recruiting, the Bill differs from the recommendations which the Calcutta Committee made. It is referred to in section 66 of the Bill, and in paragraph 9 of the Statement which is submitted with it. The Committee proposed in their draft that the garden-sardár, having proceeded to the district in which his work had to be done, should, after the recruitment was completed, be allowed to convey his recruiters away from their districts without any procedure of registering the coolies before competent authorities, or without any arrangement as to the explanation of the contracts

and engagements which the labourers are supposed to have voluntarily undertaken, and that he shall be enabled to bring them on their way to Assam, leaving their registration and the explanation of their contracts to be effected at any time between their departure from their own districts and their arrival in Assam. It appeared to the Government that this was giving a very large license, which might lead to very great abuses; and that for the sake of the class of people to be engaged as labourers, and who from their ignorance would be especially exposed to undue influences and misrepresentations, the only right course would be to insist that before the Native leaves his own district his registration shall be effected by the Magistrate or some other officer appointed by Government for the purpose, and that the nature of his engagements should be fully explained to him. In sections 66 and 69 of the Bill these provisions have been included.

“In so stating, I am quite ready to admit that the objections which the planters have referred to, and which they point to as a serious hindrance to their requirements, are not without force. I am aware that these recruiters in doing this work in distant districts are often put to a great deal of inconvenience from the necessity of having to go through the formalities which the law requires. It is represented that the Magistrate of the district is frequently engaged in other important duties, and cannot attend to the recruiters; that he is often absent from his station on cold weather tours; and that the inconveniences which arise from having collected a large number of coolies at a place where they are delayed from day to day in order that their registration may be recorded, are difficulties which seriously enhance the trouble and expense which devolve upon the employer. I can only reply that these inconveniences attach to the entire system under which labour is recruited for emigration from our mufassal districts, and that the alternative of allowing complete freedom in the matter to the recruiters employed in this duty involves, in the opinion of the Government, much greater disadvantages. However, it is hoped if the Bill is accepted in its present form that arrangements may be made to simplify the present procedure, and this is a point to which the attention of the Select Committee will be directed, with a view to ascertaining whether the appointment of an officer at some central position in the tracts of country from which these labourers are drawn, and whose duty it would be to register and forward these coolies, might not be feasible. It seems to me quite possible that with the funds which are realised under the operation of this Bill, and which enable the payment of the salary of any officer appointed by the Government to carry out the purposes of the Bill, agencies might be established in suitable localities, which would not only relieve Magistrates from duties which are arduous and take up much time, but would facilitate the registration and despatch of coolies without any appreciable delay.

“There is one other point in connection with sardári recruiting to which I would invite attention. The Bill provides that, instead of leaving the garden-sardárs to take any route they like from the recruiting districts to Assam, which obtains under the present Act, certain obligatory routes shall be prescribed by the local Governments so as to avoid the sickness and mortality which experience has shown to prevail in long journeys by road. Practically, coolies recruited for Assam come from Chutiá Nágpur, the Bihár Districts, and a few possibly from the North-Western Provinces and elsewhere. The railway lines already constructed would take most of these emigrants from within a very short distance of their own villages to a central point of departure at Huglí, from which they would be crossed to the Eastern Bengal Railway, and once on that line there would be no change till they reached Dhubri and Assam. Very little experience of such a plan, if properly carried out, would show its many advantages, while it would avoid one great evil, now too often necessary, of taking these men down to Calcutta and delaying them there for all these inspections and examinations which are obligatory under the present law before they can proceed.

“I must allude also to the effect of the changes made with regard to free emigration outside the scope of the Act. The first point on which the Committee laid stress was that the existing law did not afford sufficient encouragement to free emigration. Under the previous system, which was only partly modified by the Bengal Act of 1873, there were provisions which made it penal to engage coolies or to convey them to the labour district except in accordance with the proceedings laid down by that Act; and that Act provided that everything in the way of a contract to labour should be done outside of Assam, and thus labour-contracts entered into in the Assam districts had to be made under the ordinary law. The practical result of this condition of things was that, even if a native of India proceeded to Assam on his own account in search of employment, he could make no contract there beyond one year, and this could only be enforced under the ordinary civil law of the country. This restriction has now been withdrawn. The fourth and sixth paragraphs of the Statement of Objects and Reasons explain fully the circumstances under which this has been done.

“Another point which was represented as affecting the present law relates to the remedies provided for employers in the event of unlawful absence of the labourer from his work; and to meet this difficulty, which, like many others in this connection, arises from the great distances in Assam between the tea-plantations and the Magistrates' Courts, it is now provided that, instead of the obligation of a personal complaint to the Magistrate in each case, the employer shall make a monthly list of defaulting or absconding coolies, and that the

Inspector, during his periodical visits to the estate, should enquire into each case recorded in such list, and if satisfied of the truth of the charge, shall dispose of it as laid down in section 168 of the Bill.

“I must notice also the fact that the Bill differs from the conclusions of the Committee on the subject of procedure in cases of desertion. The opportunities for desertion are very great in Assam, and the practice is often encouraged by the great competition of labour in the province, under which labourers are, I am afraid, too often tempted by promise of bounties and rewards to forsake old employers and engage with new ones. The Committee proposed that if a labourer deserted, the employer should have the right of arresting him without warrant wherever he might be found. The Government of India was not prepared to concede this large power, and therefore the law will remain as it is now. Under this the arrest without warrant is only permissible in cases where the absconding coolie is found more than ten miles away from a Magistrate’s residence. If within ten miles of the Magistrate’s residence, the employer would be obliged to take the man before the Magistrate.”

His Excellency THE PRESIDENT :—“That is to say, he will be obliged to go before the Magistrate to apply for a warrant, not to take the labourer, who would be arrested afterwards ?”

The Hon’ble MR. THOMPSON :—“Yes; section 170 of the Bill runs as follows :—

“‘ If any labourer deserts from his employer’s service, such employer, or any other person acting on his behalf, may, without a warrant, and without the assistance of any police-officer, arrest such labourer wherever he may be found : Provided that, if such labourer be found within ten miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant.’

“As a general result, it will be seen that if the Bill is passed at all on the lines which are now proposed, it will remove many of the restrictions which at present retard free emigration. It will greatly develop the system of sardári recruiting, from which the planters expect large benefits ; and it will eventually promote, we may hope, the settlement of a permanently resident population in a province which has wide areas of waste land to reclaim. I may even go further and say that we can look forward to a time when, with the completion of the several projects before us for extending direct communication with Assam, even the necessity for such a law as this will not exist ; when we may trust that the advantages secured to the people of our over-populated districts in Bengal of finding an easy livelihood in a part of the country where climate and soil are alike favourable will induce many to seek a home in the districts of our north-eastern frontier without any need for the interposition of Government.”

Major the Hon'ble E. BARING said:—"My Lord, I do not propose to trouble the Council with any remarks upon the details of the important measure which has been introduced by my hon'ble colleague; those details will, no doubt, be carefully considered in Committee. The general scope of the measure has my hearty approval.

"A great deal has lately been done to develop the tea-industry in Assam. In the first place, the Tea Association with a very slight amount of help from the Government have adopted measures with a view to opening out the Australian and American trade. Those measures, we have recently heard, have met with a very fair amount of success. In the second place, the present measure will, I trust, minimise the difficulties under which the tea-planters have heretofore laboured and are still labouring in respect to emigration. Thirdly, there is the question to which my hon'ble colleague alluded incidentally, namely, the extension of river and railway communication with Assam. On this subject I propose to offer a few remarks to the Council.

"The subject, I may say, is not really as yet ripe for full discussion in all its details. I am therefore unable to be as explicit as I should wish. At the same time, it may be interesting to those concerned in the tea-industry to know at all events how the matter stands in so far as any communication can now be made.

"First, there is the question of river communication. On this point all I can at present say is that we are in communication with Mr. Elliott, the Chief Commissioner of Assam, with a view to deciding what action Government may most usefully and legitimately take in order to ensure the establishment of rapid steam communication to convey passengers, mails and light goods up the Brahmaputra.

"The question presents considerable difficulties both in respect to its details and to the principles involved. I trust, however, that it will be found that those difficulties are not insuperable.

"The next question is that of railway communication. A certain amount of impatience has been shown at the somewhat slow development of the policy of constructing railways through the agency of private enterprise in India. That impatience is very natural, and I fully share it. It must, however, be remembered that the difficulties which stand in the way of speedy action are considerable. There are, no doubt, some financial difficulties, but for the moment those are not the difficulties which most arrest our progress. Before the financial aspects of any particular case can be usefully approached, it is necessary to decide on the alignment of the railways, Surveys have to be made, Estimates have to be prepared.

“The position of the question as regards the line from Gauhati to Maimansingh is that we have no full reports from the engineer officers which will enable us to decide what alignment the line may most usefully take. Orders have, however, been issued for the country to be examined during the ensuing autumn and winter ; and when that has been done, we shall be in a better position to consider the financial aspects of the question.

“As regards the agency to whom the construction of these lines should be entrusted, the correspondence already published in connection with the Jessore and Kulna Railway will have informed the Council and the public that the Central Bengal Railway Company has the option of making the line from Dacca to Maimansingh. It would be obviously undesirable that one company should make the line from Dacca and Maimansingh and that another should continue it to Gauhati. It is to be hoped, therefore, that the Central Bengal Company will make the whole of the line. On this point, however, I can at present say nothing definite. But I may observe that the hands of the Government are completely free. If we cannot come to terms with the Central Bengal Company, we are at perfect liberty to negotiate with others. The terms to be granted need not necessarily be the same as those accorded in the case of the Kulna and Jessore line. As some misapprehension appears to exist as to the precise terms granted to the Central Bengal Railway Company, I should like, with your Excellency’s permission, briefly to explain what the nature of those terms are. I will compare them with those granted to the old guaranteed companies.

“In the first place, both in the case of the old guaranteed company and in the case of the Central Bengal Railway, the land is given free. On that point, therefore, the two systems stand on the same footing. But that is the only point on which they touch.

“In the second place, as regards the amount of capital on which the Government guarantees interest, an important distinction has been made. Under the old guarantee system the company had, under certain conditions, power to add to their capital, and any guarantee given by the Government extended, not only to the original capital that was raised, but also to the capital added. It is well known to those who have watched the history of guaranteed railways that there is a tendency always to add to the capital, at the expense sometimes of the revenue, account. In the new contract with the Central Bengal Railway Company the capital account is limited to one and a quarter million. Any sum added beyond that amount will be at the expense of the company and will not involve any Government guarantee.

“Thirdly, as regards the rate of interest, the terms accorded to the old guaranteed companies were 5 per cent. during the whole currency of the contract. The terms accorded to the Central Bengal Railway Company are 4 per cent. until the line is completed, and the maximum period allowed for the completion of the line is 5 years. Moreover, as it has been stipulated that any money advanced on account of interest during the period of construction will be repaid to Government with simple interest thereon out of the half profits over 5 per cent. interest, I cannot doubt that the whole of the advance will eventually revert to the treasury.

“Fourthly, as regards the purchase clauses. Under the old guarantee system the Government had the option of purchase after a certain period at a price which was generally calculated on the basis of the average price of the stock for the three years prior to the termination of the contract. Under the new contract with the Central Bengal Railway, on the other hand, the Government has the right of purchasing after 30 years at £125 per £100 of nominal capital. This provision is certainly favourable to the taxpayers; for I can hardly doubt that if the shares were left to find their ordinary level in the market, their price would be in excess of £125 thirty years hence.

“Well, my Lord, that is briefly a comparison of the old guaranteed terms and the new terms conceded to the Central Bengal Railway Company.

“I do not say that those terms are all that we could wish. I should have been glad if we could have adhered to the original proposal that there should be no guarantee at all; but I think that in considering this subject we must remember the French proverb ‘*Le mieux est toujours l’ennemi du bien.*’

“We have made a very great advance on the old guarantee system, and, moreover, we have gained the main object we had in view.

“That object was to direct public attention to the subject, and generally to give a stimulus to the construction of railways through the agency of private enterprise in India. I think any one can see that a very considerable change of opinion has recently taken place on this subject. When I commenced the negotiations connected with the Jessore line a year ago in London, I consulted many gentlemen, official and non-official, as to the possibility of constructing railways in India through the agency of private enterprise. After my arrival in Calcutta I consulted many other gentlemen, both European and Native, with a view to ascertaining whether it would be possible to launch a railway company in London or Calcutta on terms which would be not very onerous to the State. The answers I received were always friendly, but I cannot say that they were very encouraging. I could not, however, help

thinking that if we once succeeded in launching a company in London under the auspices of a firm of such standing as Messrs. Rothschild, the main object we had in view would be gained and that others would come forward. These anticipations have been justified, and I must say that I think our thanks are due to Sir Nathaniel Rothschild and his partners for the way in which they took up this matter ; for it is within my knowledge that one of the motives which in no slight degree influenced them was a public-spirited desire to act as the pioneers to railway construction by private enterprise in India.

“ Whether, however, the line from Dacca to Maimansingh and Gauhati is eventually entrusted to the Central Bengal Railway Company or to others, we shall endeavour to arrange that local capital shall have every opportunity afforded to it to come forward. I alluded in my financial statement to this great desirability of attracting local capital ; and had I thought that there could have been any misapprehension as to the policy of the Government, I would have dealt with the subject more fully. The advantages of attracting local capital are in fact obvious. Mr. Gladstone, in one of his eloquent financial statements, once remarked that he considered direct and indirect taxation as twin sisters, and that he reserved to himself the right of paying his addresses to either or to both. That metaphor, I think, accurately represents the attitude of the Government of India towards English, or I should rather say European, and local capital. We prefer, if possible, to get local capital ; but if local capital asks for too heavy terms, and is not available in sufficient quantity, we must turn our attention elsewhere. It may, indeed, be said in respect to the Kulna and Jessore line that local capital never had a chance of subscribing. That is a perfectly fair criticism. I may perhaps mention that a suggestion was made by the Government in the course of the negotiations that local subscription lists should be opened. No objection was offered to the principle, but it was thought that the thing was too small to split up, and that, to start the policy, there could be no objection to the adoption of the procedure which was actually adopted. However, inasmuch as no opportunity was as a matter of fact afforded to local capital to subscribe, I think the criticisms which have been made on that point are quite fair. It does not, however, at all follow that, because we adopted a certain procedure in one case, we should adopt the same procedure in all future cases. What we shall endeavour to do in the event of any further extension of Central Bengal Railway Company's operations, or of any other company being started, is to stipulate that local subscription lists shall be opened simultaneously with those in London. Thus, local capital will have every opportunity of subscribing. I cannot hope that local capital will be found in sufficiently large amounts to meet the wants of the country, but I hope and believe that it may be possible to combine European and local capital in any future undertakings.

“I am aware that I have somewhat digressed from the immediate subject before the Council. I have, however, gladly availed myself of the permission of your Excellency to do so, as I think the subject of which I have treated is of some interest to the public. We have recently had the advantage of learning the views of the Calcutta Chamber of Commerce and the public press on this subject; and I think I may say that the views of the Government, in so far as all essential points of policy are concerned, in no way differ from those expressed by the influential members of the trading and commercial community and the local press.”

The Motion was put and agreed to.

The Hon'ble MR. RIVERS THOMPSON also moved that the Bill be published in the *Calcutta Gazette*, the *North-Western Provinces and Oudh Government Gazette* and the *Assam Gazette* in English and in such other languages as the local Governments might think fit. He explained that it was very desirable that the Bill should be passed in the course of next month; and that, with this view, the local Governments would be requested to submit their opinions upon it as quickly as possible.

The Motion was put and agreed to.

INDIAN COMPANIES BILL.

The Hon'ble MR. STOKES introduced the Bill for the incorporation, regulation and winding-up of Trading Companies and other Associations, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Gibbs, Major the Hon'ble E. Baring and the Mover. He said that when, at the instance of the Financial Department, he obtained leave to introduce this Bill, he had described the substantial amendments of the present law which it was intended to effect. He would not now take up the time of the Council by repeating what he then said; but he would state that the amendments in question would be found in sections 13 to 23 (as to reduction of capital), 24 and 25 (as to subdivision of shares), 26 (as to associations not formed for profit), 27 (as to calls upon shares), 29 (as to transfer of shares), 30 to 35, 47, 49 (as to share-warrants), 74 (as to the annual balance-sheet), 75 (as to meetings), 7, 76, 150 (as to the power to make the liability of directors unlimited), 88 (as to prospectuses and notices inviting persons to subscribe), 132 (as to disqualifying certain contributories to present petitions to wind-up companies), 203 (as to compromises between a company and its creditors), 218, 219 (as to the power of the High Court to refer a winding-up to a district Court and to transfer a winding-up from one district Court to another).

He would only add two remarks to those that he had made when moving for leave to introduce the Bill. First, as to section 26. That section enabled societies such, for instance, as the Calcutta Trades Association, formed for the purpose of promoting commerce, art, science, charity or any other useful object, and of applying its income in promoting that object, but not for the purpose of paying dividends to its members, to become incorporated under the Act. "Associations of this description are not," says Sir Henry Thring, "by the general law, partnerships, or subject to the evils of limited liability. It is a misapprehension, therefore, to object, as some writers have done, that this section confers undue privileges on charitable or quasi-charitable societies. It merely enables them to adopt the complete organization of a corporate company, instead of the difficult and complex condition of a body that is neither a corporation nor a partnership." The section did not, like the corresponding English clause, apply to religious societies, those bodies being, it was thought, sufficiently provided for by Act I of 1880.

Secondly, section 35 contained an addition to the stamp-law. Our present Stamp Act naturally made no provision for the novel instruments which the Bill called "share-warrants." It was therefore necessary to provide for a proper duty, and this, in accordance with the English Statute, was declared to be three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration were the nominal value of the shares or stock. If a company issued a share-warrant without being duly stamped, it must of course be liable to a penalty, which the Bill proposed to make Rs. 500.

In conclusion, he might observe that the Bill, if it became an Act, would be, so far as he knew, the most complete Code of Companies' law in existence, for not only did it embody many of the rulings of the English and Indian Courts: it consolidated, with the modification necessary for India, the four English Statutes of 1862, 1867, 1870 and 1877; and it also comprised provisions enabling companies to refer to arbitration matters in dispute between them, and provisions as to arbitration in the case of a dispute between liquidators and a dissentient member as to the price to be paid for the purchase of his interest. In the English Act of 1862 both these sets of provisions were only introduced by reference to the Railway Companies Arbitration Act, 1859, and the Companies Clauses Consolidation Act, 1845.

The Motion was put and agreed to.

The Hon'ble MR. STOKES 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. He said that he might take this opportunity of stating

that it was not the intention of the Government to proceed with this Bill at Simla; it was brought forward here merely for the purpose of being published in the Gazettes and of eliciting criticism from competent persons. No further step would be taken with the Bill until the Government had returned to Calcutta.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 21st September, 1881.

SIMLA ;
 The 7th September, 1881. }

R. J. CROSTHWAITE,
Offg. Secretary to the Govt. of India,
Legislative Department.