

Wednesday, September 21, 1881

COUNCIL OF GOVERNOR GENERAL
OF
INDIA

VOL . 20

JAN. - DEC.

1881

P . L .

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

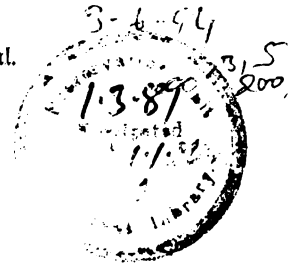
1881.

WITH INDEX.

VOL. XX.



Published by the Authority of the Governor General.



CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

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 21st 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.

STOWAWAYS BILL.

The Hon'ble MR. STOKES moved for leave to introduce a Bill to prohibit the landing of certain Stowaways, and to provide for the recovery of expenses incurred by Government in respect of such persons. He said that stowaways (*sit venia verbo*) were, on a rough average, found on board two out of every ten vessels arriving at the port of Calcutta. At Rangoon the average number landed annually was only twelve; but the Chief Commissioner said that there was every likelihood of this number increasing with the advance of the direct trade between the United Kingdom and Rangoon. They were frequently landed at Aden, but he (MR. STOKES) could not give the Council the figure; and at Bombay the Customs Preventive Department reported that they were numerous enough to render prohibitory measures desirable. For some unknown reason, stowaways did not approve of Madras, and cases of landing them in that Presidency were of rare occurrence. As the law stood, masters of ships in British Indian ports might land stowaways, and were in no way responsible for them after they had landed. If stowaways so landed were Europeans and became vagrants (as they occasionally did), they had to be dealt with under the European Vagrancy Act, 1874, and provided with subsistence-allowance while in charge of the police, with food while in a work-

house, and (where no employment was obtained for them) with a passage to some place out of British India—to England, or Australia, or wherever else their homes might be. As the necessity for relieving such persons really arose from the carelessness of masters of ships, who failed to detect their presence on board before leaving port, it seemed unfair that the expenses so incurred should be borne by the Indian tax-payer. A similar difficulty had occurred elsewhere. Thus, at home it had been held that stowaways were not seamen within the meaning of the Merchant Shipping Act, 1854, and therefore, when landed in the United Kingdom, they became a charge on parochial funds. In Mauritius, and, he believed, also in Victoria, the colonial legislatures had been forced to deal with the subject.

The present Bill had been prepared to relieve the Indian tax-payer. It prohibited the landing in British Indian ports of stowaways of European extraction, except with the previous sanction of the shipping master or some other officer appointed by the local Government; and it required the owner or agent of the ship on board of which the stowaway was found to give a bond to the effect that all expenses incurred in the event of the stowaway becoming a vagrant within one year should be borne by the obligor. It also imposed a penalty on any master causing or permitting a stowaway to land; and it provided that where any stowaway was caused or permitted to land without the shipping master's sanction and became a vagrant within one year of so landing, the owner or agent of the ship from which the stowaway had landed should pay all the expenses incurred by the State in consequence of his becoming a vagrant.

The present piece of "over-legislation" had been originated by the Financial Department; and all the maritime local Governments, except, of course, Madras, were in favour of it.

The Motion was put and agreed to.

BENGAL CIVIL COURTS BILL.

The Hon'ble MR. STOKES moved for leave to introduce a Bill to amend the law relating to the Civil Courts in Bengal, the North-Western Provinces and Assam. He said that section 4 of the Bengal Civil Courts Act, 1871, declared that the number of Subordinate Judges and Munsifs to be appointed in each district should be fixed, and might from time to time be altered, by the local Government. And section 6 of the same Act declared that, when the Governor General in Council had sanctioned an increase in the number of Munsifs, the High Court should nominate such person as it thought fit to be a Munsif, and the local Government should appoint him accordingly. The num-

ber of Munsifs was accordingly fixed, under section 4, in the Lower Provinces and Assam. Subsequently, in exercise of the power vested in local Governments by the terms of the provincial service arrangements in regard to the creation of additional appointments on salaries not exceeding Rs. 250 a month, the Government of Bengal and the Chief Commissioner of Assam, without the previous sanction of the Governor General in Council, appointed Munsifs in excess of the number so fixed. Doubts had been raised as to the validity of such appointments. It appeared to the Government of India that the law did not authorize the local Government to appoint Munsifs, whether temporarily or permanently, in excess of the fixed number, unless an increase to that number had previously been sanctioned by the Governor General in Council. It was, however, in the opinion of the Government of India, desirable to empower the local Government, without the sanction, but subject to the control, of the Governor General in Council, to increase the number of Munsifs, provided that this power was confined to those grades of Munsifs the pay of which did not exceed Rs. 250 a month.

The present Bill had accordingly been prepared. The opportunity had been taken to validate the appointments of Munsifs already made by the Bengal Government and the Chief Commissioner of Assam, and to make it clear that the local Government could not increase the number of District Judges or Subordinate Judges without the previous sanction of the Governor General in Council. The law regarding the Bengal Civil Courts was contained in two Acts, VI of 1871 and XIX of 1877, section 1, and the Bill would repeal these enactments and re-enact them with the amendments which he had specified and with such changes in the wording of the law as the experience of the last ten years had shewn to be desirable.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 5th October, 1881.

SIMLA ;
The 21st September, 1881. }

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