

Wednesday, July 6, 1881

COUNCIL OF GOVERNOR GENERAL
OF
INDIA

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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.

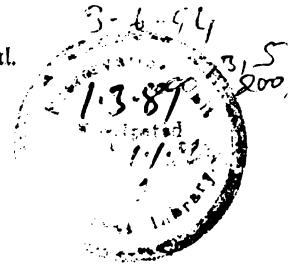
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WITH INDEX.

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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 6th July, 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, B.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.

INDIAN TRUSTS BILL.

The Hon'ble MR. STOKES presented the Report of the Select Committee on the Bill to define and amend the law relating to Private Trusts and Trustees.

INDIAN EASEMENTS BILL.

The Hon'ble MR. STOKES also presented the Report of the Select Committee on the Bill to define and amend the law relating to Easements and Licenses.

INDIAN EMIGRATION BILL.

The Hon'ble MR. STOKES moved for leave to introduce a Bill to define and amend the law relating to the Emigration of Natives of India. He said that numerous suggestions for the amendment of Act VII of 1871, which regulated the emigration of natives of India to the British, French and Dutch colonies, had, from time to time, been received by the Government. Many of those which it appeared desirable to adopt dealt with minor and, comparatively speaking, unimportant points; but some proposed substantial changes, which would materially alter the working of the existing law. It had, moreover, been found that the ~~form~~ and arrangement of the Act were, like

most things, susceptible of improvement. Under these circumstances, it had been thought advisable to repeal the Act, and re-enact it with all the requisite amendments. Of these amendments, he would now state to the Council the four most important.—

First, the terms “emigrate,” “emigrant” and “emigration” would be so defined as to cover not only persons leaving India under a contract to labour, but also dependents of such persons. It was obvious that, for the purposes of controlling recruiters and depôts, regulating emigrant vessels, and so forth, it was as necessary to take count of dependents as of the persons who contracted to labour.

Secondly, section 26 of the Act of 1871 declared that emigration should not be lawful except from Calcutta, Madras or Bombay. Under the Bill the Governor General in Council would be empowered to establish ports, such, for instance, as Negapatam, other than those of the three Presidency-towns as ports of embarkation.

Thirdly, the Bill would enable minors to enter into contracts to emigrate. Under the English law and the law which prevailed in India (at all events in the Presidency-towns) down to the passing of the Contract Act of 1872, minors, though labouring under a general incapacity to enter into absolutely binding contracts, might make contracts for their own benefit, which would be binding on them till avoided by them within a reasonable time of coming of age. But in a recent correspondence it had been brought to notice that the effect of the ~~Indian~~ Contract Act of 1872 had been to make it impossible for persons under the legal age of majority (in most cases eighteen) to engage to emigrate, though emigration might fairly be said to be always for the minor's benefit. The Bill would set this right. It would declare that every person above sixteen years might himself enter into a contract to emigrate—this was in accordance with the Bengal Labour Districts Emigration Act of 1873—and it would provide that minors below that age and above the age of six years might contract through their guardians, power being reserved to the minor to rescind the contract at any time within the thirty days next following the completion of his age of eighteen years.

Fourthly, the Bill would require all agreements to emigrate to be in writing, and, if entered into within the limits of any port from which emigration was lawful, to be made with the Emigration Agent at such port, and executed in the presence of the Protector; if entered into elsewhere, to be made with a recruiter, and executed in the presence of a Magistrate. It would also lay down what such agreements must contain. At present, there was some obscurity in the law as to what constituted the contract to emigrate; and it was not absolutely necessary that any terms of service should

be settled before the emigrant left India. Most, if not all, colonies had already introduced written contracts, so that there would be no hardship in requiring their general use; the conventions with France and Holland expressly stipulated that a written contract must first be executed in India, and there would thus be no difficulty with those Powers. The requirement of a contract, moreover, marked distinctly the stage at which an emigrant became liable for breach of contract—a point which, under the present law, was somewhat uncertain. Lastly, the provision existed (in substance) in the Burma and Straits Settlements Emigration Laws. The material stipulations which the Bill would prescribe were all actually adopted by the colonies which received Indian emigrants.

If the Council gave leave to introduce the Bill, he would mention such further details as might seem necessary to be brought before the attention of the Council. At present he thought it sufficient to state, as he had done, the four principal points in which amendments would be made in the present law.

HIS EXCELLENCY THE PRESIDENT remarked that the question was one which had been a long time under discussion, and he found that sanction to legislate upon it was given by his predecessor, Lord Lytton. HIS EXCELLENCY had not yet had an opportunity of examining the Bill, but he hoped shortly to be able to do so.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 20th July, 1881.

SIMLA ;
The 6th July, 1881. }

R. J. CROSTHWAITE,
Officiating Secretary to the Government of India,
Legislative Department.