

Thursday,  
5th January, 1882

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

**LAWS AND REGULATIONS**

Vol. XXI

Jan.-Dec., 1882

Not to be taken away.

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Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1882.

Chamber Furnigated,

WITH INDEX,

VOL. XXI.

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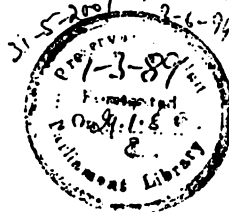


Published by the Authority of the Governor General.

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1883.



*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 Thursday, the 5th January, 1882.

PRESENT :

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 Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, 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 H. J. Reynolds.

The Hon'ble Mahárájá Jotíndra Mohan Tagore, C.S.I.

The Hon'ble L. Forbes.

The Hon'ble C. H. T. Crosthwaite.

The Hon'ble A. B. Inglis.

The Hon'ble W. C. Plowden.

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

INLAND EMIGRATION BILL.

The Hon'ble MR. RIVERS THOMPSON presented the further Report of the Select Committee on the Bill to amend the law relating to Emigration to the Labour-districts of Bengal and Assam.

The Hon'ble MR. RIVERS THOMPSON then moved that the further Report be taken into consideration. He said that he did not think there was any cause to regret that the brief postponement which had been agreed to at the last meeting of the Council had taken place; because they had been enabled, by the recommittal of the Bill to the Select Committee, to consider the measure in the light of the memorial of the British Indian Association, which had been laid before the Council at the last meeting, and to review the whole Bill, with the aid of the intelligence and the experience of two of their hon'ble colleagues, who were then appointed to sit in the Committee. It would be seen, from the

report which had been submitted on the 28th December, that in very many points the Committee had been able to meet the wishes of his friend, the Hon'ble Mahárájá Jotíndra Mohan Tagore, and Mr. THOMPSON was free to admit that it had been for the better, inasmuch as the amendments introduced gave clearer expression to the intentions and objects of the Bill, namely, to provide security and protection to coolies emigrating to labour-districts. The amendments which had been made, while they did not impair the efficiency of the Bill or affect its principles, were decidedly improvements. Having said this, he regretted he was obliged to add that the Select Committee had not been able to meet all the views of his hon'ble friend. It would be seen that he had signed the report with certain reservations, and, though he had not formulated any definite or express amendments, he might be intending to bring forward the points which he had reserved, and Mr. THOMPSON need scarcely add that, if his hon'ble friend did so, the Council would welcome any discussion which he might raise on the Bill, with the view of securing a full and satisfactory measure. He might at this stage have awaited the discussion which would probably follow on the details of the Bill, but there were certain general issues which had been raised in the memorial of the British Indian Association with regard to which he would like to make a few observations. He might mention, in passing, that, since the last meeting of the Council, a memorial had been presented by the Tea Association in Calcutta, which, in fair and guarded language, gave, he conceived, a very good answer to many of the objections brought forward by the memorial of the British Indian Association. In addition to that, the Committee had also received a memorial from a gentleman, Bábu Kunjalál Banarjee, who occupied a seat on the Bench of the Small Cause Court in Calcutta—a gentleman who represented himself as taking considerable interest in all questions connected with the welfare of the natives of the country. The memorial which he had presented ran generally on the lines of the memorial of the British Indian Association, and, though it was couched in more temperate language than the somewhat sensational paragraphs of its more ambitious counterpart, there was one point which they both deprecated, and which they described to be the "giving free scope to free emigration side by side with protected emigration," such as this Bill desired to legalise. The British Indian Association said:—

"Your memorialists appeal to Your Excellency in Council to consider whether, in a question like this, there is room for the free action of two such opposite principles as free emigration and restricted emigration."

Now, to speak for himself, and, what was more important, speaking and expressing the opinion of those who were better conversant with the present

state and condition of affairs in Assam, he should say that there was ample room for both systems ; and he would observe, in the second place, what the memorialists repeatedly ignored throughout their contentions, that, in the recognition of this system of free emigration side by side with partially protected emigration, we were only maintaining here the provisions of the existing law, which had been in operation and had worked very successfully for the last eight years. If hon'ble members would look at the last edition of the Bill now before them, they would see in the marginal notes that reference was made to the sections of the existing law, and also to the sections of the Bill as they had been drafted by the Commission, and he ventured to say that nine-tenths of the Bill, as it now stood, were reproductions merely of what existed under the present law, and even the amendments that had been introduced were not so much changes in substance as improvements in drafting. He might add that very many of the amendments were entirely in favour of the labourer. In section 7 of the Bengal Act of 1873, this principle of recruiting labourers outside of the existing law had been fully recognised ; and, curiously, the text on which the individual and corporate memorialists, if he might so call them, had taken exception, in regard to the matter of free emigration, was based on section 7 of the Act as it now stood. He would draw attention to the wording of that section, which said, "Save as provided by section 5" (which referred to the temporary prohibition by the Local Government of emigration to any labour-district) "nothing in this Act shall be deemed to prohibit any native of India from emigrating to, or entering into a contract in, a labour-district, otherwise than under the provisions of this Act." MR. THOMPSON would contend that there was nothing more harmless, legitimate or desirable. But to refer to the objections taken by the memorialists—the British Indian Association—they said :—

"After fully considering all the circumstances attending labour on the estates in Assam, the legislature may adopt one principle or the other ; either it may admit free emigration without let or hindrance, or it may regulate emigration under certain well-defined precautions, checks and restrictions. But to sanction both is, in the humble opinion of your memorialists, to contradict the conditions on which the necessity for legislation on the subject is founded. If the time has arrived for free emigration, there can be no need for restriction, for the one is as opposed to the other as darkness and light ; but the introduction of the Bill shows that there is necessity for restriction."

Similarly, Bábú Kunjalál Banarjee repeated :—

"Your petitioner strongly objects to section 8 of the Bill (now section 7), for, while he fully admits the abstract justice of the question that every man ought to be left to the choice of voluntarily entering into a contract, he fears very much that, *under the guise of free emigration*, this section will work, as matters now stand, the greatest possible mischief to ignorant men, and afford a wide scope for evasion of the wholesome provisions of the law for registration of the emigrant."

In the first place, MR. THOMPSON said that there was no disguise at all about the matter. Section 7 was an open, expressed and unreserved declaration of a positive right belonging to every native in India—the right of taking himself and his labour to any place he liked, and entering there into a contract under the ordinary law of the country. Any prohibition of such freedom might justly have been urged, and, he had no doubt, would have been urged in somewhat high-flown language, to be an arbitrary infringement by a despotic legislature of the unalienable right of the British subject. The omission of the section, which had been pleaded for by the British Indian Association, was quite possible; but he contended that the omission of the section would not impair the inherent right which existed, and the inclusion of the section was only dictated by the desire of the Council, while specially legislating for special circumstances, to make it clear that it was the right of every native of India to go to any districts, and enter into any contract he liked, outside the provisions of this Bill. As the Bill stood, therefore, a native of India might go to Assam of his own accord, without the intervention of any party, and offer himself there as a labourer to enter into a contract either under the ordinary law of the land, or under the provisions of this special enactment; and, in his opinion, it was incontestably right that every native should be able to enjoy that liberty.

The next general exception which had been taken by those who had memorialised the Council was in connection with the provisions which the Bill contained on the subject of the recruitment of labour. He would explain that, as in the old Act, so under the present Bill, it was proposed that the double system of recruiting through the agency of contractors, and engaging labourers, through the agency of planters, should be continued. The objection which had been taken by those who protested against it was that the restrictions which were placed on the recruitment of labourers by contractors were far more strict and severe than those which were imposed on the recruiters employed as servants and agents of the employers direct. He admitted that, to some extent, it was so; but the same had obtained in the two previous enactments on the subject; and this Bill, which removed the limitation as to the number of labourers whom a garden-sardár might engage, was, he submitted, justified by the success which had attended the garden-sardári system and by the altered circumstances of the country. The contention of those who had remonstrated on this point was to be found in the memorial of the British Indian Association. They said:—

“The grounds for the invidious distinction made between the contractor and garden-sardár, as regards the procedure to be followed by them respectively, are not apparent. If both will be at liberty to engage labourers *ad libitum*, the obligations and liabilities of both ought to be the same. If the precautions prescribed in the case of the contractor have been suggested by a humane consideration for the labourer, surely the same consideration ought to apply to the

labourer who may be engaged by the garden-sardár. It comes to this, that either there is, or there is not, necessity for those precautions; if they are necessary,—and it cannot be denied that they are necessary,—they ought to be enforced with an equal hand. To enforce them in one case and not to do so in the other would not only be unequal legislation, but would practically encourage the engagement of labourers through an agency which would be less expensive and irksome, and, therefore, more liable to abuse.”

It was seen that the contention of the memorialists was for perpetuating the engagement of labourers through contractors. That was the only system which obtained in the early days of emigration to Assam, because, at that time, the means of reaching Assam were very difficult. In 1873, when improvements had been made in the matter of communications, a change was made in the law by sanctioning the direct employment of garden-sardárs in obtaining labourers. The procedure in the one case and the other ran parallel to a certain point. The contractor, whose services were engaged for the duty of recruitment, had to send his recruiters to the districts where labour was procurable, and the recruiter, after his arrival there, having gone through all the formalities of recruiting, of engaging and registering his coolies, proceeded with them to Calcutta. The garden-sardár, despatched directly from Assam to the districts where labourers were found, went through the same formalities of recruiting, engaging and registering his party; but there the similarity ended. The contractor's agent was obliged to proceed with his men down to Calcutta and to bring them to the depôts established in Calcutta. The garden-sardár could at once proceed from the place where he had recruited the coolies to the tea-estates in Assam. Now, it would be seen that there was a double process in the case of contractors' coolies, while there was a single process in the case of others; and he had no doubt that the planters were very wise, now that the system of communication with Assam was more regular and rapid, to object to a system of recruiting which imposed long detours in the journey to Calcutta, and considerable delays and great expense connected with the detention of labourers in Calcutta. All the additional restrictions of which complaint had been made were in connection with this fact. Depôts requiring supervision had to be established in Calcutta; medical inspections had to be held in Calcutta; and he (MR. THOMPSON) had no hesitation in saying that most of the difficulties and troubles connected with emigration from Bengal to Assam were here. While they were detained in Calcutta, they were obliged to remain in depôts established for the purpose, for a shorter or longer period, and if an epidemic broke out, the coolies suffered immensely; and, what with desertions and deaths and one thing and another, the incidental expenses were so great that it was quite reasonable to expect that a cheaper and more expeditious system should be adopted. Therefore, when a change was made in the law, the planters

objected to the double process. In the one case the journey took probably six weeks, in the other six days. It was due to the exertions of Sir Ashley Eden that a great impulse had been given to the promotion of direct communication with Assam, and, on the establishment of more direct, rapid and regular communications with Assam, the necessity for the contractors' system was not apparent. It might be urged, why retain it? The Committee which had reported on the subject said there were many estates which were small and situated at a distance, and which had not yet established relations to carry out the direct system of recruiting, and which, therefore, were obliged to resort to contractors to obtain their coolies. There was also the difficulty of interfering at once with vested interests; but there could be little doubt that, if the Bill became law, and as the direct system of recruitment was more generally adopted, it would be but a few years before the whole contractors' system would disappear, and recruiting would be conducted wholly by a direct agency.

With reference to the objection that the safeguards in the recruitment of coolies through garden-sardárs were not sufficient, he would ask the Council to follow him through Chapter IV, in reference to the procedure connected with that system. The contention was that the garden-sardár abused his power, and by fraudulent representations, and, possibly, by force, induced the coolies to enter into contracts to go to Assam. The contention, on the other side, was that the legislature had provided securities and safeguards of a sufficiently stringent character to prevent anything of the sort. The Hon'ble Member here read to the Council several of the sections from the chapter referred to, and, adverting to section 66 specially, said that it seemed to him that they had exhausted all the powers of language to secure that the action of the labourers should be perfectly free and voluntary. The transaction was a public and open one, conducted by a Government officer held personally responsible for seeing that the contract entered into was performed in its strict legal exactness. The persons who entered into such contracts were grown up men, who knew their right hand from their left, and who, in other matters of business, such as their relations with their landlords in rent cases, were supposed to know a good deal more. He did not mean to say that occasions might not arise when the rapacity of recruiters (if they were rapacious) and the imperfections of human nature might not frustrate the good intentions of the law; but he certainly could assert that, as far as care and circumspection could be exercised, the framers of the Bill had taken every precaution to ensure that the labourer undertaking such an enterprise should understand the nature of his obligation, and his perfect freedom of choice whether to go or to stay.

He trusted that he had thus far met the general objections which had been



taken by those who had presented to the Council the memorials on the Bill. He did not pretend to have exhausted all the remonstrances which had been urged, because, in the first place, several of them had been satisfied by the amendments which had been adopted, as shown in the report of the Select Committee; one of them had fallen through because it rested on the fallacy that the wage of the labourer, which was prescribed by the law, was the maximum instead of the minimum; and the remainder were unimportant. If others were brought forward for discussion in this Council, he should be ready to explain them as far as he could.

However, outside the memorials which had been presented to the Council, he was obliged to notice statements which had appeared in a public print in connection with this Bill. This was a paper which represented, and had a good deal of influence upon, the opinions of the natives of the country, and he would be sorry that it should go forth as a real exposition of what the law was, without attempting in some measure to refute it. He referred to the statements which had been made in connection with section 146 of the Bill. In the preface, which preceded a reference to this section, the article in the paper to which he had referred gave an animated account of the slave-trade, and of the abominable atrocities which were committed some ten years ago by depredators from the main land of Australia upon the islanders of the South Seas and in Fiji. Nothing could be more atrocious than the conduct of those persons. The article he referred to proceeded as follows:—

“In Lord Kimberley’s Kidnapping Act of 1872, it is provided that if a British subject, for the purpose of kidnapping, commits the following offences, *viz.*:—

“ (1) decoys a native of the Pacific Islands, or carries away, confines, &c.,

“ (2) ships, or assists in shipping, or detaining, &c.,

“ (3) contracts for ditto,

“ (4) fits out, mans or navigates, uses, employs, lets or takes in freight, hire, &c.,

“ (5) ships, &c., or puts on board money, goods or other articles, with the intention that they should be employed for kidnapping purposes,

“ shall for each offence be guilty of felony, and shall be liable to be tried and punished for such felony in any Supreme Court of justice in any of the Australian colonies, and shall upon conviction be liable at the discretion of the Judge to the highest punishment other than capital punishment.” In India the punishment for kidnapping is seven years’ rigorous imprisonment. But our legislature is anxious to avoid such punishments, and makes the offence of kidnapping, when committed for a tea-plantation, to be as harmless as possible. Section 146 provides that the offence of inducing, &c., should be expiated by a fine not exceeding 50 rupees; that is, the offence, which, under the Act of Parliament, is a felony worthy of the highest punishment short of hanging, and in India ordinarily requires seven years’ imprisonment, must when committed for the sake of a tea-planter be let off with a small fine.”

Now, it seemed to him that no criticism could be more dishonest or dishonourable than that which he had just quoted. If hon'ble members would look to section 146 of the Bill, they would see that it provided a penalty for the wilfully acting in contravention of an order of a Local Government under section 5. That section gave the power to a Local Government temporarily to close any district to emigration, when, in the event of famine, pestilence or—as might well happen in Assam—from raids and disturbance, it was unsafe to allow the importation of coolies to such a district. The circumstances were special, and the prohibition probably would be temporary. But if any person knowing such prohibition to be in force induced labourers to go the district, he was punishable by fine. Was there any possible comparison between that provision and the offence of kidnapping? But, apart from that, if the offence of kidnapping was committed, he begged to say that there was ample provision in this Bill which allowed punishment for that offence, or any other offence under the Penal Code irrespective of any breach of this Act. There was another paragraph in the article which presented a more humorous view and should be noticed. The contention here was with reference to the extension of the time of contract from three years to five, and, as he read the paragraph, it seemed to imply that, although the contract might be for five years, practically that would be only the nominal period, and the greater portion of these labourers would be virtually bound down for life. And the argument on which that conclusion was based was:—

“Slavery meant life-long bondage; but the cooly under the Emigration law is subject to only a temporary restraint. In so far there is a wide difference between the lot of the slave and that of the Assam labourer. But how does the case stand in practice? The law fixes the limit of five years, and calls the Bill an ‘Emigration’ Bill, but Mr. C. J. Lyall, Secretary to the Assam Government, in his report to the Indian Government, calls the transportation ‘immigration,’ and not *emigration*. The word occurs on the title of the report—‘on Labour Immigration into Assam,’ and again in the covering letter; and as an educated English gentleman, it is not to be supposed that he used the word without knowing its meaning. The shrewd editor of the *Indian Tea Gazette* uses the same word. But, verbal criticism apart, we fear that, in the vast majority of cases, the period of five years may turn out to be nominal.”

Apparently the use of the word *immigration* by writers in Assam gave rise to the contention in the paper that five years was the nominal term of the contract under which the coolie would go to Assam. Every one who knew Mr. C. J. Lyall would be aware that among his many remarkable gifts he possessed especially the power of expressing in terse and accurate language what he meant to say; and no one could doubt that both he and the “shrewd editor of the *Tea Gazette*” were strictly correct, writing in Assam, in calling

the Bill an Immigration Bill, while in Calcutta it was described as an Emigration Bill.

He had only, in conclusion, to make a few further remarks. The general object of the Bill was to promote the means by which the surplus population in some of our over-populous districts might emigrate to the labour-districts and secure there the means of gaining a comfortable and easy livelihood. One of the gentlemen who had memorialised the Council expressed the hope that the Bill would provide that the measure of comfort which the labourer enjoyed in his own home would be secured to him in Assam. MR. RIVERS THOMPSON had taken pains to ascertain the facts from those who knew the province, and he found that the condition of the labourers in Assam was incomparably more satisfactory and more comfortable than anything they could have in their own villages. He spoke in the presence of His Excellency the Commander-in-Chief, who had recently made a tour through Assam, and who would be able to tell them whether the condition of things which he had described was right or not; and he contended that if the Bill became law it would not only promote the interests of a large and valuable industry in Assam, but would also promote the welfare of the large numbers of labourers in that province; that, while it would tend very much to relieve the pressure found to exist in over-populated districts, it would give to the sparsely-populated parts of Assam the help it so much needed.

The Hon'ble MR. INGLIS said he was glad the hon'ble member, Mahārājā Jotindra Mohan Tagore, had decided not to move any substantive amendment to the motion for the passing of the Bill. It was to be regretted he did not see his way to approve of some of its provisions, as MR. INGLIS was sure all must feel that the opinion of the hon'ble member on a measure of this sort was entitled to great weight. He could not help thinking, however, that in this instance Mahārājā Jotindra Mohan Tagore was anticipating evils which a more practical acquaintance with the working of the present law would show him were not likely to arise. He could understand the Council exercising very great hesitation in passing a measure of this sort if they had no experience to guide them with regard to its practical working. If, however, it was borne in mind that the Bill now before the Council simply re-enacted a law which had been in existence in substantially the same form since 1865, and that no abuses of the kind apprehended by the hon'ble member were alleged to have occurred in connection with it, MR. INGLIS thought it must be admitted by all unprejudiced minds that his hon'ble friend's fears were groundless. The two chief points in which the present Bill differed from Act VII of 1873, which it was intended to

replace, were the extension of the permissive term of contract from three to five years, and allowing contracts entered into in the tea-districts to be made under the Bill. With regard to the former, he did not himself attach very great importance to it, but he thought, if the law allowed a term of five years in the case of coolies who emigrated to British and foreign colonial possessions at a distance from India, it would be most unfair to restrict contracts for service in India made under this Act to a shorter term. It remained to be seen how far employers of labour in the tea-districts would avail themselves of the longer term. If it was found that by its adoption emigration to the tea-districts was checked or rendered unpopular, it was quite certain planters would be content to take contracts for less than the full term allowed by the Bill. The increase in the rate of wages in the fourth and fifth years of a five-years term was an important element in considering this point. In cases where the five-years term was availed of, the effect would be to increase eventually the rate of wages all round, and in so far the labourers would benefit very materially. He certainly thought this increase of pay a full equivalent for the extra service, and that it amply protected the interests of the labourer.

With regard to free emigration and local contracts, it should be borne in mind that there was no legal restriction with regard to free emigration now. A planter under the present law might take up any number of free labourers he chose, but his inability to make a binding contract with them in the tea-districts after he had gone to the expense of importing them prevented him from availing himself of this permission. The Bill dealt with this defect in the present law. If there were a railway to Assam and good roads throughout the Province, so that planters could procure their labour as inexpensively as employers more fortunately situated could do, there would be no great need for this special legislation. Planters would be content in that case to run the risk of importing their labour under the sanction of the ordinary law. If Mahá-rájá Jotíndra Mohan Tagore, and those native gentlemen who shared his views, wished to see all special legislation on this subject abolished, what they should do was to promote railway communication with Assam. He was sure the Government of India would only be too glad to offer every encouragement to any gentlemen, whether Native or European, who might come forward as promoters of such a railway; and he thought he could say for the proprietors of tea-estates in Assam that they would gladly support any well-conceived undertaking of the kind. That was what he looked to as the best solution of the difficulties which beset this subject.

In the meantime, until there was this railway, and along with it improved internal means of communication and greater facilities for enforcement of con-

tracts, a law such as the one the Council was asked to pass was indispensable. He asked the hon'ble member to put himself in the place of a proprietor of a tea-estate in Assam obliged to import labourers to work his garden. The cost of importing each such labourer was not less on an average than sixty rupees, and not so very long ago the cost amounted to one hundred rupees and upwards.

Was it fair to expect employers to incur this expense without having some guarantee that the labourers they imported would remain with them for a term sufficient to warrant the expense incurred in conveying them into the province? In every case the coolie emigrated with the view of bettering himself, and all who had seen the condition of the agricultural labouring classes in the parts of Bengal where tea-planters carried on recruiting operations, as compared with their position on tea-estates, must admit that they earned wages and enjoyed a degree of comfort in Assam unknown in the districts from which they came. The average wages of this class in their own native districts was not more than half the minimum wage on a tea-estate; and it should always be borne in mind that, as coolies were paid by task-work on tea-estates, a good workman could with ease earn double and even treble the minimum wages named in the Bill, and that, too, without exceeding the hours of labour specified therein. If that was the position of matters,—and he challenged a denial of the facts he had stated,—it was surely not only fair to planters who were spending so much money in Assam to reclaim the province from the jungle which covered so large an area of its surface, but it was also a right and kind thing from the coolies' point of view to encourage free emigration in every legitimate way. If, in the course of a few years, railway communication with Assam and Káchár become an accomplished fact, as he hoped would be the case, the necessity for this special legislation might be expected to pass away. The plan which must, in that case, take the place of the present system would be assisted free emigration and local contracts only, without the special protection the Bill afforded to labourers on the one hand and to employers on the other. If planters were then able to make contracts with their workpeople for one or more seasons under Act XIII of 1859 (an Act to provide for the punishment of breaches of contract), or some such law, they would ask no more. He considered, therefore, that it was of the greatest importance to prepare the way, as he thought this Bill would do, for the freer system which all parties admitted would be an improvement on the plan they were obliged at present to adopt. Planters had no love for the present system. If they could only import their labour at small cost they would gladly dispense with such protection as the Bill afforded them in order to get rid of its restrictions. These operate to increase the cost of

labour very materially, and the protection afforded was in many cases only nominal. He hoped the discussion which had taken place, if it did nothing else, would clear away some of the misconceptions which existed with regard to the tendency and practical working of the Bill, and that ere many years were over the necessity for any special legislation would have disappeared.

The Hon'ble MAHÁRÁJÁ JOTÍNDRA MOHAN TAGORE said he felt very thankful to His Excellency, to the hon'ble member in charge of the Bill, and to the Council, for referring back the present Bill to the Select Committee on his motion, and his thanks were also due to the members of the Select Committee for the patience and attention with which they had given him a hearing, and for adopting two or three of the suggestions embodied in the memorial of the British Indian Association. But, unfortunately, there had been a difference of opinion between them and himself, and the Committee had not been able to come to an agreement on several points of the Bill. For instance, under the existing Act, the maximum period for a labour-contract was three years; but by section 9 of the Bill it had been extended to five years, though it was said that the present Bill was a step towards the encouragement of free labour, and, in fact, it was on this ground that the Government of India, on a former occasion, declined to sanction such an extension of the time. With reference to what had been said by the hon'ble member to his right (Mr. Inglis), that contracts with emigrants to the colonies extended to five years, and that therefore the same rule ought to apply to emigrants who went from one part of the country to another, he submitted to the Council to consider whether encouragement of free labour, as it was alleged the Bill proposed to give, and extension of the period from three to five years, during which the coolie was restricted in his freedom of action, were not two inconsistent things. It had been said by the same hon'ble member that there would be an increase of pay after the lapse of three years. He begged to observe that, if the increase of a minimum pay of a rupee be considered sufficient inducement, why should there be any necessity for a compulsory law on the subject? The coolie might be left alone to sell his labour in the best market he could obtain.

Then, again, under the present law, a deserter could be arrested without warrant beyond a limit of ten miles from the Magistrate's residence. Now, the Bill, in section 172, circumscribed the area to five miles; but the penalty for illegal restraint, prescribed in contravention of the general law of the land against such offence, was still to be (in section 176) a maximum fine of fifty rupees, simply because it was so under the present Act. He might observe, here, in passing, that the penalty for such offence was, in the original Act of

the Bengal Council, a fine not exceeding five hundred rupees. With reference to this point, he saw it stated that, when he was a member of the Bengal Council, in 1873, he did not raise any objection to this provision. Far from it. He then happened to be Honorary Secretary to the British Indian Association, and in the representation made by that body regarding the Labour Contract Bill, which was signed by him, a strong protest was made against the provision authorising arrest without warrant. The letter of the Association thus represented the views which he, in common with his colleagues of the Committee, entertained on the subject, and he, therefore, deemed it superfluous to emphasise them by repetition from his place in the Bengal Council.

With reference to the remarks of his hon'ble friend Mr. Rivers Thompson, he begged to observe that he did not quite see the difference between the duties of the contractors and the garden-sardárs. What the British Indian Association contended for was, not to relax the restrictions in favour of the contractors, but to bring the garden-sardárs within the restrictions imposed upon the contractors, inasmuch as the garden-sardárs, who could, under the existing law, recruit only twenty men, were enabled under the present Bill to recruit any number of men, and would in all respects enjoy the privileges of the contractors. The double and single process which the coolie had to undergo at the time of recruiting, under the contractor and the garden-sardár, respectively, to which the hon'ble member in charge of the Bill had alluded, MAHÁRÁJÁ JOTÍNDRA MOHAN TAGORE submitted, did not make any material difference in the position of the coolie, and that, in both cases, he needed equal protection, and, therefore, he thought that both the contractor and the garden-sardár should be placed under the same restrictions.

Then, as to what fell from the Hon'ble Mr. Rivers Thompson with reference to section 66, what the Association contended for was, not simply that the contract should be explained to the labourer, but that before signing and registering it he should at least once have an opportunity, when he understood it properly, to refuse to enter into it, if he should choose to do so.

But he would not multiply instances. He understood that many of these points had been settled after deliberation in the Executive Council. Such being the case, he did not like to re-open the discussion which he had raised in the Select Committee, nor would he waste the time of the Council by proposing substantive amendments, which, he feared, there was little chance of being accepted; but he would take the liberty to mark his dissent by simply voting against the passing of the Bill in its present form.

The Hon'ble Mr. REYNOLDS said that he imagined that the Bill before the Council made no pretence—any more than the Act which it superseded—to be a final settlement of the question of inland emigration. He looked forward to the time, which he hoped was not very distant, when emigration from Bihār and the North-Western Provinces into Assam would be as free from restrictions as emigration from Scotland into England. But that time had not yet arrived, and it was the duty of the Government till then to enact such regulations as would preserve the emigrant from ill-treatment or fraud. But it was in the nature of things that at each successive revision of these regulations the stringency of former rules should be somewhat relaxed, and the system should approach more and more closely to one of entire freedom of contract between the labourer and employer. Already they had outgrown some of the provisions of the Act of 1873, and the restrictions of the Bill now before the Council would become obsolete in their turn; and it might be that their successors would be able to dispense with all special legislation on the subject, leaving the engagement of the emigrant under the ordinary law of contract. But for the present it was necessary, on the one hand, to see that no advantage was taken of the ignorance and helplessness of the labourer; on the other hand, that industry was not fettered by vexatious rules, nor progress checked by unnecessary restrictions. He supported the Bill before the Council because it seemed sufficiently to secure these objects. A native newspaper, which was always conducted with ability, and generally with fairness, had attacked the Bill with a violence which he was unable to understand, and with an amount of misrepresentation which he could only attribute either to a want of knowledge or to a want of candour. As these attacks had been made publicly, he was glad to take this opportunity to express his cordial approval of the principles of the Bill. It was fortunate, perhaps, that the Government had consented to refer the Bill back to the Select Committee, as the supplementary report showed that, on most careful consideration, the changes necessary were of a very trivial and unimportant character. MR. REYNOLDS observed with satisfaction that the Bill encouraged free emigration, both by permitting emigrants to enter into contracts under the ordinary law, and by allowing contracts under the Bill to be made in a labour-district. He was also glad to see that the Bill enlarged the powers of garden-sardárs, while the appointment of local agents was a wholesome check on the proceedings of the garden-sardár. The effect of all these sections was likely to be that the emigration of coolies would be less and less in the hands of professional recruiters and contractors—a result which in itself was very desirable. The abuses which had occurred in former years were due largely to the malpractices of men of these classes, and he thought the Council should welcome a change of system which tended



to bring the employer and the employed into earlier and more immediate contact. At the same time, while some of the restrictions on emigration had been removed, it could not fairly be said that the interests of the emigrant had been overlooked. Care had been taken that he should understand his contract, that there should be no compulsory separation of families, that his comfort and well-being on the journey should be secured, that he should be suitably lodged and fed on the estate, and that he should have every reasonable facility for appealing to the law against any ill-usage or breach of contract. For the effectual working of those provisions much would, of course, depend on the Superintendent and Inspector, but he believed that no one would say that these officers could not be trusted to perform their duties efficiently and conscientiously. If there was any murmur heard against them, it was almost always on the plea of their showing too much zeal in the cause of the labourer. On these grounds, therefore, he would heartily support the Bill.

His Honour THE LIEUTENANT-GOVERNOR said that he had been somewhat surprised by the active, though somewhat tardy, opposition which had been raised to the Bill by the British Indian Association. The principles to which exception was now taken had been the basis of legislation for regulating the transport of labour for nearly twenty years, and, so far as he could recollect, the subject had never received much attention from the native community.

It was now, as nearly as possible, twenty years since he, in 1862, introduced into the Bengal Council the first Bill on the subject of regulating the transport and supervision of labour in the tea-districts, and he had subsequently, later on, introduced a Bill into the Council amending the original Act; and, as a matter of fact, Bills on the subject had been discussed in 1862, 1865, 1867, 1870, 1873, 1878, without causing considerable opposition on the part of the native community. When the first Bill of 1862 was introduced, it was entirely a Government measure, and was in fact forced upon the Government by the state of things which was then found to exist, and which called for prompt and active interference. He might, perhaps, be permitted to read an extract from the reasons which he then assigned to the Bengal Council as a justification for legislation on the subject. He then said—

“It was brought to the notice of Government that, owing to deficient organisation, the system under which the emigration of labour from the western to the eastern districts of Bengal was at present carried on was attended with evils of so serious a nature as to render the prompt interference of Government necessary. It had come to the notice of Government that every shipment of coolies to those districts was attended with great mortality—a mortality reaching, in one instance, as high as 50 per cent., and there was no room to doubt but that

this was mainly attributable to a bad system of recruitment and contract, and to want of care and foresight in the embarkation and despatch of the coolies.

“With a view of ascertaining the exact nature and extent of these abuses, and of obtaining some practical suggestions for their future prevention, a committee of gentlemen of much experience in matters relating to native emigration was appointed. After a careful enquiry they submitted a report which showed that coolies were shipped in large batches without any arrangement to secure order or cleanliness; that uncooked food was issued without cooks to prepare it; that the medical charge of the coolies in many cases was left to ignorant *chaprásis*, who were entrusted with small supplies of medicine, with the uses of which they were, of course, as ignorant as the men to whom they administered it; that, in other cases, unqualified medical officers were sent in charge; that labourers were embarked in some instances almost in a dying state; and that overcrowded flats were lashed to steamers day and night, and the coolies on board were thus deprived of their only chance of free ventilation. The committee found that there was no uniformity of system in the despatch and recruitment of coolies; labourers in most cases were provided by native contractors at so much per head. Practically, the supply of labourers was, they found; an ordinary commercial transaction between the native contractor and the planter, ‘all parties considering their duty and responsibility discharged when the living are landed and the cost of the dead adjusted.’ There appeared to be no specific engagement on starting between employer and labourer—a state of things which opened a road to an immense amount of false statement and exaggeration on the part of the native recruiters; and there was an entire absence of any efficient medical inspection of coolies before shipment. The depôts of the native contractors were described as resembling more than anything else the half-dried bed of a *nala* greatly defiled by the surrounding people; and it was also stated that the supply of women was small—out of all proportion to the supply of men,—the rate being only at 5 to 15 per cent.

“It must not be inferred that, in the opinion of Government, the planters themselves were to blame for the abuses of the system under which they received their supply of labour. It was certainly much to their disadvantage to pay large advances for men who never reached them alive, or for those who, when they came, were found to be maimed, blind and incapacitated for labour. The planters were in the hands of avaricious contractors, and were not in a position by themselves to establish and organise a system for importing labour.

“Having given due weight to the recommendations of the Committee, and having, during his late visit to those districts, considered the whole question of the supply of labour, the Lieutenant-Governor came to the conclusion that the interference of Government was called for both on the score of humanity and in the interests of the employers of labour.”

Now, no one could possibly pretend that the state of things now existing in regard to the transport to, and treatment of labourers in, Assam had any resemblance to the state of things thus described. Though at that time Assam was a portion of the Government of Bengal, it was just as much cut off from Calcutta as any foreign colony. The labourers embarking at Calcutta had a five weeks' voyage before them, and even when the Eastern Bengal Railway was finished they had a three weeks' voyage from Kushtia. When they arrived,

they were in a strange land of which they had no knowledge, and where there was no one to look after them. Now, on the other hand, owing to the improved communications, a labourer could leave Calcutta one day and arrive at Dhubrí in Assam the next. What was really wanted now, and what would do more good than any legislation, was a quick despatch service of steamers from Dhubrí up the Brahmaputra Valley. Till this was established the transport of labourers to Assam could never be in a really satisfactory condition. But as the communication had improved, as Assam had been opened out and become better known to the labouring classes of Bengal, each succeeding stage of legislation had somewhat relaxed the strictness of the regulations by which the transport and recruitment of labourers had been controlled. We had tried gradually to arrive as near to free emigration as circumstances had permitted. He could not understand the assertion that there was something inconsistent in endeavouring to carry out a system of unrestricted emigration at the same time as a system of restricted emigration. What we were, and had long been, aiming at was the gradual approach to a free system altogether, as soon as the country was ready for it. But this was not possible till communication was further perfected. Some people required assistance to emigrate, some did not. We said to the planters and emigrants,—“You are quite free to make your own arrangements under the general law of the land. But if this does not suit you, then here is a plan by which you both may still benefit; which imposes on you reciprocal rights and duties, and enables the Government to see that each of you perform his share of the bargain. Government prefers free emigration, and is doing all in its power by improved communications to further it. But it will take some time before the railway supplements the recruiters, and meantime it is to the interests of all concerned that emigration should continue. Restricted emigration is merely the complement of free emigration. If they can transport themselves to the labour-market let them do so, but if they are to be helped, it must be under these rules.”

As to the specific objections to the Bills raised by the hon'ble the Maharájá, he could only say that no one had been more consistently opposed than HIS HONOUR had been to the extension of the period of engagement from three years to five. He always opposed it when proposed for colonial emigration, but it had now been legalised under, he believed, orders from the Home Government for the colonies, and it seemed to him most unreasonable to say the five years' engagement, which was allowed for colonics and over which we had no direct control or power of interference, should still be forbidden in regard to engagements made by labourers going from one part of India to another, for, after all, it was as easy now to go to Assam as to Maimansingh, Chittagong, Rangpur, Dinajpur and other districts of Bengal.

The Hon'ble Mr. STOKES said that he would not take up the time of the Council by repeating any part of the temperate and able reply of the planters to the British Indian Association. He would only make a very few remarks on two points respecting which that reply might, he thought, have been fuller. The Association objected to the extension of the term of the contract from three to five years, and the Hon'ble Mahárájá had repeated the objection. But five years was the term for which coolies might be engaged to serve in the French colonies under Act No. VII of 1871, and Art. IX of the Convention with France, printed in the third schedule to that Act, and he believed that the same term prevailed in the other colonies to which coolies emigrated under that Act. One reason for this, of course, was that, in those colonies, as in Assam, for the first year or two, the raw coolie was learning his business at the expense of his employer, who could only be recouped for that expense and for the cost of importing him by the coolie's skilled service for three or four years. He was informed that many young Englishmen who came out here as assistants in merchants' offices bound themselves for periods of five years from the date of arrival. In truth, the mention of any term at all was a restriction, for the benefit of the servant, of the liberty to enter into contracts of service for any time, which was allowed by the law of England. He had found that even among hon'ble members some misapprehension existed as to this; but he could assure the Council that it was settled law that a contract to serve in a particular business for an indefinite time, or even for life, was not void on any ground of public policy. Thus, in *Wallis v. Day*, 2 M. & W. 273, the Court of Exchequer held that a covenant to serve a carrier during the covenantor's whole life was good in law, and that decision had been approved by the latest and ablest of the text-writers, Mr. Pollock, in his *Principles of Contract*, p. 316. Under our Bill the maximum term would be five years; but in *Pilkington v. Scott*, 15 M. & W. 657, the agreement of service was for a term of seven years, and in *Hartley v. Cummings*, 5 O. B. 247, it was also for seven years; and in both these cases the agreement was upheld. He admitted that in France a contract of service extending over the whole life of the contractor was deemed inconsistent with individual liberty, and was accordingly forbidden by the Code Napoléon, Art. 1780. But under that Code any term of service, such as one for five years, not virtually amounting to a contract for life, would clearly be valid.

Then, as to the power to employers to arrest without warrant coolies deserting their service, he thought the Council would agree that some such power was necessary when the ordinary civil remedy was futile, as in the case of servants from whom it was impossible to recover damages, and when the ordinary criminal procedure was impracticable, as in the case of a territory like Assam where Magistrates were few and far between. The British Indian Association seemed to think such a power as was given by the Bill a novelty in Anglo-Indian and

English law, and had the hardihood to say that it did not differ widely from the Fugitive Slave Law of America. But the Fugitive Slave Law contravened the common law of the free States, which was the common law of England, so far as it was applicable, according to which a slave, the instant he touched what Curran had called 'the sacred soil of Britain,' became a free man. The Fugitive Slave Law was at variance with the tone and policy of the liberating legislation of New York and the Eastern States, which began as far back as 1780. The Fugitive Slave Law required all citizens to render personal aid in arresting slaves in case of resistance, excluded the testimony of the fugitive, and rendered penal any assistance given to him. There were other differences between the two laws, but he had said enough to show that the Council would be justified in regarding the comparison as a mere handful of rhetorical mud. Then, as to precedents for the statutory power to arrest runaway servants without warrant, a Bábú called Kunjalál Banarjee, who filled the responsible situation of a judge of the Presidency Court of Small Causes and ought to have been better informed, had said in Paper No. 10:—"Except in cases of military deserters, your petitioner is not aware whether such power has been conferred on an employer in any other country by its legislature, to arrest by force a private servant leaving his employer's service." Now, MR. STOKES had not hunted for precedents, but he could quote two with which every one, except, apparently, the Association and this Bábú, must be familiar. Since 1854, for the last twenty-seven years, throughout the United Kingdom, when any seaman or apprentice deserted from any merchant ship in which he was duly engaged to serve, the master or any mate, or the owner, ship's husband or consignee, might apprehend him without first procuring a warrant, and the police were bound to aid in the arrest if so required. So it was enacted by the English Statute 17 & 18 Vic., s. 246, and this section was copied in the Indian Act No. I of 1859, section 86, which had been the law, and had, he supposed, been enforced in Calcutta every day, during the last twelve years. Would any of the Parliaments held in England during the present reign—would any Council that ever sat in this Chamber or in the Legislative Council House, have enacted anything like a Fugitive Slave Law? But the closest precedent was the Burma Labour Law, Act No. III of 1876, section 66, which enacted that "if any immigrant deserts or attempts to desert from his employer's service, such employer or any other person acting in his behalf may *without warrant*, and without the assistance of any police-officer (who nevertheless shall be bound to give such assistance if called upon to do so) apprehend such immigrant *wherever he may be found*." When they remembered that the author of the Burma Labour Law was Sir Arthur Hobhouse, of all the men he had ever known the most completely filled with a noble passion for

constitutional freedom and right, they might, he thought, safely pass a clause which the five miles limit made far less stringent than the section which he had just cited.

And when they also remembered that the clause objected to was copied from a section which had actually been in force since 1873 (Bengal Act No. VII of 1873, section 122), and had given rise (so far as he was aware) to no malpractices, they might estimate at its true value the suggestion of the Association that the planters' peons would use this power for the purposes of revenge or extortion.

His Excellency the COMMANDER-IN-CHIEF said that he did not know where the British Indian Association had got the facts on which their memorial had been based, and he thought the information therein contained must have referred to a state of things which had long passed away. During his tour in Assam, he had had several opportunities of visiting tea-gardens, and of making enquiries into the state of the labour-question there, and he had discussed it with tea-planters, the officers of Government and the coolies themselves, and he must say that the conclusion that he came to was, that there was little necessity for having the Bill at all, but for the difficulty of communication in the province, as pointed out by His Honour the Lieutenant-Governor. This difficulty would no doubt be removed in the course of time, and he believed that a few years hence the Bill might with safety be repealed.

The condition of the coolies in the gardens was such that HIS EXCELLENCY did not think that the condition of the labourer in any other part of India could compare with it. What struck him most was their independence, and it seemed to him that the coolies were more the masters than the planters. In their daily task-work they were left much to themselves. In the gardens he had visited he found nothing resembling slavery, and nothing which suggested to him any necessity for improving the condition of the coolies working in them. In fact, he could not imagine a happier life than that of a coolie in a tea-garden. The daily task was not a heavy one; in many cases it was completed in half a working day, and one woman was pointed out to him who earned Rs. 12 a month during the picking-season. He supposed they knew that a great number of the time-expired emigrants had settled down in the country, and that some gardens were entirely worked by coolies who had served their time. Surely, nothing could speak better for the state of things in Assam than that.

They had heard a great deal about the question of the power of arrest without warrant—a power that looked more formidable than it really was. He

found that, in 49 out of 50 cases, the runaway coolie had quarrelled with his comrade or his wife, and instead of going to his master to settle the dispute he had run away. The man, when caught, went back to the garden, had his grievance investigated and settled without the intervention of a Magistrate, and in most cases returned quietly to his work. We all know that it is a very common practice that when a master quarrels with his servant the latter runs away, and this was what happened in a great number of cases in the tea-districts. In reference to this matter, he had been assured by several Magistrates that cases of real ill-treatment were few and far between.

The Hon'ble MR. RIVERS THOMPSON said he had not much to say in reply to what had fallen from his hon'ble friend Mahárájá Jotíndra Mohan Tagore, because two out of the three points raised by him had been fully answered by his learned colleague Mr. Whitley Stokes and His Excellency the Commander-in-Chief. There was one point, however, which his friend did raise which MR. RIVERS THOMPSON would endeavour shortly to answer. It was said that the provisions relating to the emigration of labourers through the agency of garden-sardárs were much less stringent than the rules and regulations by which contractors were bound in respect of coolies engaged and transported by them. But the two things were not susceptible of comparison; there was a double process in respect of the one and a single process in reference to the other. As far as the operations of recruiting, engaging and registering in the Mufassal were concerned, he believed that practically the same liabilities were attached to both; but when once these operations were concluded, the garden-sardár was left to transport his labourers to the tea-districts by the most direct route available, and there was no necessity to impose upon him the duties and liabilities imposed on contractors in reference to the depôt arrangements in Calcutta and the despatch thence to Assam. As he had just said, the two things could not be brought into comparison; they were separate and distinct from the point at which they started from the Mufassal, the one to go to Assam, and the other to proceed to Calcutta. The zeal manifested in the case of contractors has probably been the basis of all the representations made in respect of this matter; it was not so much consideration for the coolie as a desire to maintain the system of contractors in Calcutta. That system was now almost out of date, and could not be maintained with any advantage to the emigration of labourers to Assam.

Finally, with reference to the question of communications to which His Honour the Lieutenant-Governor had referred, he might say that a scheme for the establishment of communications between Calcutta and Assam was likely

soon to come to a practical conclusion. It was well known that the Government of India had taken steps to enquire into the matter, and only within the last few days the Secretary of State for India had given intimation that a leading firm in London were prepared to undertake arrangements for a rapid steamer communication between Dhubri and Dibrughur. When that was established, the delays and detentions on the road would come to an end, and the whole difficulty connected with free emigration to Assam would be entirely removed.

His Excellency THE PRESIDENT said :—“ I have listened with great interest to the discussion which has taken place, and am very glad that, on the occasion of the last meeting of this Council, we agreed to the postponement of the consideration of the Bill before us to-day. I think that the alterations made in the Bill by the Select Committee are decided improvements—improvements which have been suggested by the public discussions which have taken place and the interest which has been taken in the question by my honourable friend Maharájá Jotindra Mohan Tagore. I am also very glad that this measure has been now fully discussed by the public, and carefully considered by the members of this Council at a very full meeting such as that which has assembled on the present occasion.

“ I do not think there is the slightest necessity for me to take any notice of what our American cousins would call the “ tall talk ” which has gone on about this Bill. We are all very well aware of the value of that sort of thing, and it is not my intention to occupy the time of the Council in making any answer to the very exaggerated statements which have been made in respect of this measure. But one thing has struck me in regard to it, and that is, the great change which has taken place in the view taken of this kind of legislation in regard to emigration to Assam.

“ Some persons speak now as if this was the first step which had been taken in this direction, and as if the whole object of the Bill was to advance the interests of the planters at the expense of the coolies; but the statement which was made by my honourable friend the Lieutenant-Governor, and the extracts which have been read by him from his remarks when he had charge of the Bill in the Bengal Council, will show that when this system of emigration was originally introduced, it was brought forward entirely in the interests of the coolies, and that the object was to restrict the system of emigration which was then open to great abuses, and in which serious evils existed. The original Bill was introduced to regulate that system. That was not only the opinion of Sir Ashley Eden; but I find, on reference to the discussions in 1862, that a gentleman who is well known to all present



here—Nawáb Abdul Latif—on that occasion took precisely the same view of the objects and purposes of this legislation. That gentleman said, he “thought that the proposed measure was very proper and very much called for. There was great propriety in the interference of the Government in a matter which daily concerned the welfare of thousands of its subjects.” Therefore, it was admitted at the very inception of this business, that the distinct object and purpose of this legislation was the protection of the cooly against the evils to which he was subject under the emigration arrangements of the time. I feel, as strongly as any one can, the difficulty which exists with regard to legislation of this kind. The moment you come to interfere between the employers of labour and those whom they employ, you enter into a most difficult field of legislation; for it is the duty of Government to look into the interest of both parties. In many respects it may undoubtedly be said that those interests are identical, but at the same time it cannot be denied that there are other respects in which they are antagonistic. And it is a very difficult task to draw the right line in legislation of this description, so as to deal with perfect fairness to both parties. I, therefore, shall greatly rejoice when the time arrives—and I think with several here that it may not be very distant—when special legislation with regard to this question may be dispensed with, and the whole subject of emigration from India and immigration into Assam may be left to the operation of the ordinary law of the country. We are approaching that time, I think, somewhat rapidly, because I hope we may very soon improve our communications with Assam, and I can say for myself and my honourable colleagues, that it is our earnest desire to do everything we can to promote the improvement of these communications, whether by rail or by water, and the great object we have in view is to arrive at a period when this matter may be left entirely to the ordinary laws of the country.

“Now, it has been said that there is something inconsistent in maintaining side by side a regulated system of emigration such as is provided for in this Act, and in admitting at the same time the free engagement of labourers in Assam when once they get there. I confess I think that is not a valid objection, because there is no doubt that the difficulties of communication and the cost of bringing labourers to Assam are still great, and form the ground of a reasonable desire on the part of planters to have the security of a contract of some duration to recoup them for the expense to which they are necessarily put in bringing coolies to the tea districts from such considerable distances. If contracts of long duration are to be sanctioned by law, it becomes necessary in the interest of the cooly to have a system for his protection. But as communications have already improved, and from various circumstances the time appears

to be approaching when a system of free emigration may be adopted in Assam, it seems extremely desirable and natural that you should make a commencement at the present time. It should be borne in mind that all that has been done is to give labourers who go to Assam, or who are there, the same rights in respect of their labour as would be enjoyed by them under the general law of the country, and to put them on precisely the same footing as any man who enters into a labour contract in the Panjáb or anywhere else. I am bound to say I think a very strong case ought to be made out before the Government of India would be justified in continuing to refuse persons in Assam the same right to enter into arrangements for their own labour which are already enjoyed by persons in other parts of India. I have taken a great deal of interest in this question, because, as I said before, it is a question of very great difficulty, in which you have to deal with the interests of two distinct parties, one of which is much more able to represent his feelings than the other, consequently one of the great objects I have had in view has been to ascertain what is the real state of things in Assam under the present law. You have heard the statement of my honourable and gallant friend the Commander-in-Chief, as to the impressions left on his mind by the result of his recent visit to Assam, and I am certain that nothing can be more satisfactory than what my honourable and gallant friend has gathered from such inspection as he has been able to make, as to the condition of coolies on tea plantations. He has said that their condition is not only as good, but certainly better than the condition of similar labouring persons elsewhere in India. But the opportunities I have had of acquiring information are not confined to the statements I have just referred to, for I have had the great advantage of consulting, in the various stages of this Bill, with the Chief Commissioner of Assam, Mr. Elliott, who, as everybody who knows him can testify, is a singularly able and energetic officer. He has been very careful in giving his opinion on the subject. When he was first called upon, he declined—and I think very rightly—to express any decided opinion till he had the opportunity of looking into the matter himself and seeing what was the real condition of affairs; but, having done so, Mr. Elliott tells me now that he is perfectly satisfied that the condition of the coolies in Assam is generally highly satisfactory; that they are not subjected to oppression, and that, as a rule, their employers, though there may be individual exceptions, are most anxious to treat the coolies well, and that the arrangements for their housing, medical attendance and general comfort, and the relations which exist between the planter and his coolies, are of as satisfactory a character as can be expected to exist anywhere.

“ Now, when we look at this question, we ought to look at it from a prac-

tical point of view, and such testimony as I have just adduced has therefore a very important bearing on the matter. This Bill has been treated to a certain extent as if it were new legislation, and several at all events of the criticisms sent in to Government by those who have made representations in connection with the Bill, have been criticisms, not upon the new provisions of this measure, but upon the provisions of the Bill which are re-enactments of the existing Bengal law. Now, no doubt, any Government which adopts what I think is the best system—and certainly the most convenient system in a case of this kind—and, when it wants to alter the existing law, repeals that law so as to embody the whole law on the subject in one new measure, is exposed, not here only, but at home, to the inconvenience of persons looking at the Bill, not as a re-enactment of the existing law, but as something entirely new, and proceeding to find all sorts of faults with provisions which have been in fact in operation for many years. That has to a certain extent been the case with this Bill. The fact of the matter is that the far greater portion of the Bill is a re-enactment of the existing law. If any one will turn to the Bill and look carefully at the new provisions it contains, he will find that the major part of them are distinctly in favour of the cooly, and intended to increase his protection and improve his position. I will not trouble the Council by going through the details of those provisions. I have done so carefully, and I can say that the statement I have made, that the majority of those provisions are in favour of the cooly, is undoubtedly correct.

“There are certainly provisions in which alterations have been made at the instance of the employers, and not of the employed. The principal changes in that direction to which I will advert have been, first, the prolongation of the period of the contract from three to five years. My hon'ble friend Maharájâ Jotindra Mohan Tagore objects to that, and it is a very fair subject for discussion. All I have to say is, that it is a point which in the original memorial of gentlemen interested in the tea industry, was most pressed on the Government. It does seem to me to be extremely hard to say to them “You shall not be allowed to enter into a contract of the same length as persons engaged in the British colonies; and as the French and other foreign Governments are allowed.” I do not think that is a position which this Government can occupy; but we have provided that during the last year of the five-year contract, the wages paid to the coolies shall be steadily increased. There has been some misconception, I think, with regard to the provision regulating the minimum wages to be paid to the cooly. A good deal of the controversy has been worded, at all events, as if those who entered upon it had thought that what was fixed was the maxi-

mum, not minimum, of wages. As I understand the nature of the industrial arrangements of Assam, every able-bodied cooly will undoubtedly earn, as he does now, a much larger amount of wages than he would be entitled to as a minimum. The fact of the matter is that by the system of task-work, I believe, the wages of the coolies are far higher than they are in many other parts in India, and the labourers in Assam have also the advantage that their wives and children are able to be employed on the light labour of picking tea leaves in certain seasons of the year. So that the total amount of wages of the family is very much larger than what we can, I fear, state to be the income of the labouring classes in other parts of India, and it is quite unreasonable to treat figures which are strictly a minimum as if the intention of the legislature was to fix the wages at that amount. The object of that figure is to prevent a sick or weakly cooly from being employed below a certain rate. It is always expected that able-bodied men will earn a great deal more, but we have felt ourselves bound to protect the weaker coolies against their being placed in a position which would leave them with means wholly inadequate for the sustenance of themselves and their families.

“I now come to the question which has been raised with respect to the measure which has been proposed, in order to make sure, before the cooly is moved from his place of residence, that he is really acquainted with the nature of the contract into which he has entered. I have before me a very fair and temperate representation which has been made by the Indian Association within the last two or three days. They have argued the subject very fairly, and they have put forward objections to certain parts of the Bill which are well entitled to consideration. They press upon us in their memorial this point of the ignorance of the cooly, and give a curious extract from a book published by a missionary of the Brahma Somáj, to show how very ignorant a great number of the coolies who engage to go to Assam are. I have no doubt that that is a perfectly fair statement of the knowledge of many of these coolies; but I do claim for the Bill that it takes the utmost possible care that the labourer should thoroughly understand the nature of the engagement he is about to enter into. I know that my hon'ble friend, Mr. Rivers Thompson, has considered this point to be one of great importance, and we are aware that the British Indian Association has made some useful suggestions upon it; there are also other useful suggestions in their memorial, but this one is to my mind the most important. They suggest that it should be made perfectly clear that it is the duty of the Registering officer to explain the contract to the cooly. It was always intended that that officer should make that explanation to the cooly; but it is much better to make it plain and explicit and to put into specific words that

it is his duty to do so. The Registering officer has therefore been directly required to explain the terms of the contract to the coolies, and, as pointed out by Mr. Rivers Thompson, the Bill provides that the officer shall assure himself that such person is competent to enter into such contract, and understands the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him; that the terms thereof are in accordance with law; that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same. I do not know how you can cover wider ground than this.

“If a cooly, as in the case mentioned in the memorial of the Indian Association, has been told that he is being taken to the house of a European in Calcutta to work as a servant there, he has been clearly engaged under a misrepresentation. The Registering officer is also to satisfy himself that the cooly at the last moment, after the fullest explanation has been given to him of all the particulars of his contract, is then and there willing to enter into the contract. That, I think, is an answer to the point which has been suggested by my hon'ble friend Mahárájá Jotindra Mohan Tagore, because, if a man is not really willing, the contract is void. There is only one more point of detail in regard to which I will say a word. My hon'ble friend alluded to the power which the Bill confers, of arresting an absconded labourer without a warrant. I am not the least surprised that he should view this power with suspicion. It is a power which ought not to be conferred without the greatest possible care, and I myself shared the suspicion of my hon'ble friend and viewed it with considerable doubt and hesitation, but it is also true, as has been shown by my hon'ble and learned friend, Mr. Stokes, that this is a power which has been granted, not only in this case and in that of British Burma, but is conferred in certain cases in England; it is a power that has hitherto been worked without complaint, so far as I know, in Assam. The Commission which was appointed to enquire into the matter, recommended that the limit of ten miles which exists in the Bengal law should be entirely done away with, and that the power should be altogether unrestricted. I did not feel myself free to accept that proposal. I consider that this is a power which requires to be carefully watched, and I do not think that it will be right to abolish the limit altogether, or that a man should be liable to arrest without a warrant, close to the door of a Magistrate from whom a warrant might be obtained. But I became convinced, and the members of the Government were convinced, after careful and prolonged consideration, that, as a matter of fact, the ten miles limit is altogether illusory; that it is not, generally

speaking, paid attention to, and that there is a much better chance of the check upon arrest without warrant being made practically effective if the limit is reduced from ten to five miles ; that being a reasonable distance within which you may require that a person go to a Magistrate to obtain a warrant. And therefore it was, though not without reluctance, that I consented to the modification of the limit from ten miles to five. I can assure my hon'ble friend that I should be the last person to agree to anything that was calculated to extend unnecessarily a power so open to objection as that of arrest without warrant ; but in a country where communications are so difficult, and the number of persons exercising magisterial powers are necessarily so restricted, as at present in Assam, a provision of this sort appears to be called for. I do not think that I need detain the Council with any further remarks, except to say that the real question which we have to consider in regard to this Bill is, whether the time has come when it is possible at once to leave emigration to Assam to be carried out entirely under the ordinary laws of the country ; or whether it is necessary to continue for a time a system of special regulation. That is the first question we have to consider. It certainly seems to me that the time has not come in which in the interests of the coolies themselves, we can allow them to be engaged in Bengal and the North-Western Provinces and taken to Assam at the expense of the planter, without taking on their behalf proper precautions for their good treatment when they arrive there. And there is another reason why the present system should not be abandoned at this moment, and that is that we should be selecting a very unfortunate period for disorganizing the existing arrangements for cooly-labour for Assam. The tea industry, as we all know, has been for the last few years in a suffering condition. Things are rather improving at the present time, prices are rising, and the English public are becoming sensible of the good quality of Indian teas, and this time of transition seems to me to be most inopportune for making any great change in the law regulating the organization of the tea industry. I am sure the Council will be of opinion that it is of the utmost importance to the interest of the great mass of the people that we should encourage as much as possible the application of capital for the opening out of the resources of the country and the promotion of a fresh means of employment for the people. And it cannot be gainsaid, that it is in itself a great advantage that we should drain off a portion of the overcrowded population of some parts of the country to other parts where it is sparse. I am told that in the case of many coolies who go to Assam they are able at the termination of their engagement to procure land for themselves, and to settle down to cultivate it, and can also get employment for themselves and their wives and children on fair terms on the tea plantations. It is an enormous advantage to relieve the

crowded districts of Bengal and the North-Western Provinces where population increases, as the census shows, from year to year—from decade to decade—and to induce a portion of the inhabitants of those districts to pass away to other parts where their conditions will be materially improved. It is better for those who remain and for those who go.

“These are the questions of general consideration connected with this matter. If it has been asserted that the Government of India has, in regard to this measure, been actuated by any desire to promote the interest of one class in preference to another, I do not care to answer such an accusation. I am quite prepared to leave the judgment of my own conduct to those who know anything of my character; for if I did not believe that this measure would improve the condition of the tea industry in Assam and conduce greatly to the welfare of the coolies, I should certainly not give my consent to it.”

The Motion was put and agreed to.

The Hon'ble MR. RIVERS THOMPSON then moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### INDIAN PORTS ACT AMENDMENT BILL.

The Hon'ble MR. STOKES moved for leave to introduce a Bill to exempt certain vessels from the Indian Ports Act, 1875, section 38. He said that section 38 of the Indian Ports Act, 1875, which had been extended to the Port of Bombay, provided that no vessel of the burden of one hundred tons or upwards should be moved in port without having a pilot, harbour-master or other officer on board. The Trustees of the Port and the Government of Bombay were of opinion that the pilotage of native vessels in that port was both undesirable and impossible; and the Government of India had therefore decided to legislate so as to exempt such vessels from the prohibition contained in section 38 of the Indian Ports Act, 1875. With this object the present Bill had been prepared. The Legislative Department was generally much indebted to the Local Governments for suggestions as to Bills; but it was obviously desirable that those suggestions should not only be complete and accurate, but made in good time. In the present case the Bombay Government had taken nearly seven years to discover the impossibility of which they now complained, and which rendered it necessary for him to trouble the Council with the present Bill.

The Motion was put and agreed to.

## PRESIDENCY SMALL CAUSE COURTS BILL.

The Hon'ble MR. STOKES also presented the further Report of the Select Committee on the Bill to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency-towns.

## TRANSFER OF PROPERTY BILL.

The Hon'ble MR. STOKES also presented a further Report of the Select Committee on the Bill to define and amend the law relating to the Transfer of Property by act of Parties.

## TRUSTS BILL.

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

## CRIMINAL PROCEDURE BILL.

The Hon'ble MR. STOKES asked for leave to postpone the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to Criminal Procedure. A paper from the Bengal Government had just been sent in, which the Committee would have to consider carefully.

Leave was granted.

## CENTRAL PROVINCES LOCAL RATES BILL.

The Hon'ble MR. CROSTHWAITE introduced the Bill to provide for the levy of Rates on Land in the Central Provinces, and moved that it be referred to a Select Committee consisting of the Hon'ble MR. Stokes, the Hon'ble Major Baring, the Hon'ble Mr. Plowden and the Mover. He said that leave had already been given to introduce this Bill; but as some little time had elapsed since the subject was last before the Council, he might state shortly that the object of the Bill was merely to make legal provision for the levy of the rates at present existing, and to provide for the future for the levy of rates in the same manner as provision had already been made for their levy in the North-Western and other Provinces.

The Motion was put and agreed to.

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

The Motion was put and agreed to.



SUNDRY BILLS.

The Hon'ble MR. STOKES moved that the Hon'ble Mr. Hunter be added to the Select Committees on the following Bills :—

To consolidate and amend the law relating to agricultural tenancies in the Central Provinces.

To amend the Indian Penal Code.

To amend the law relating to the Civil Courts in Bengal, the North-Western Provinces and Assam.

The Motion was put and agreed to.

EASEMENTS AND INDIAN PENAL CODE BILLS.

The Hon'ble MR. STOKES also moved that the Hon'ble Sayyad Ahmad Khán Bahádur be added to the Select Committees on the following Bills :—

To define and amend the law relating to Easements and Licenses.

To amend the Indian Penal Code.

The Motion was put and agreed to.

JHÁNSÍ INCUMBERED ESTATES BILL.

The Hon'ble MR. STOKES then moved that the Hon'ble Mr. Plowden be added to the Select Committee on the Bill to provide for the relief of Incumbered Estates in the Jhánís Division of the North-Western Provinces.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 12th January, 1882.

CALCUTTA ;  
The 5th January, 1882.

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