

Tuesday, July 18, 1871

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA
LAWS AND REGULATIONS.

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

The Council met at Simla on Tuesday, the 18th July 1871.

P R E S E N T :

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

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

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble H. W. Norman, C. B.

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

EUROPEAN VAGRANCY ACT AMENDMENT BILL.

The Hon'ble MR. STEPHEN introduced the Bill to amend the European Vagrancy Act, 1869, and moved that it be referred to a Select Committee with instructions to report in three weeks. He said that he had, on moving for leave to introduce the Bill, explained the causes which necessitated the changes now proposed. It was unnecessary for him, on the present occasion, to trouble the Council with any further remarks.

The Hon'ble MR. ELLIS said that the records of some recent proceedings of the Madras Government confirmed the view that some such measure as the one now introduced was urgently wanted. It appeared from those proceedings that the Madras Government had had to deal with some twenty loafers, the majority of whom were of the very class in question, and the Government had been obliged to pay for the carriage of those men back to Australia. The fact that the Bill was as much needed in Madras as at Calcutta might, he thought, be new to the Council.

The Hon'ble MR. COCKERELL said that he trusted that it was not intended that the proposed amendments of the law relating to European vagrancy should come into operation until a sufficient period had elapsed to admit of the consignors of horses, in charge of which the persons to whom this Vagrancy

Bill related were sent to Indian ports, becoming aware of the responsibility which they, through their agents or consignees, would thenceforth incur in sending such persons to India, and regulating their conduct in this matter accordingly.

It might be that his hon'ble and learned friend in charge of the Bill contemplated some provision to that effect; but, as he had not announced it, he (MR. COCKERELL) thought it necessary to draw attention to the point, as any doubt as to the intention of the framer of the Bill in that matter might subject the measure to the imputation of undue harshness.

MR. COCKERELL also wished to enquire whether the Government was in possession of any information as to the antecedents of the persons whose vagrancy had suggested the need for the present Bill. It would be remembered that, by the twenty-fifth section of the Vagrancy Act, provision was made for the imposition on the Master or Captain of any vessel conveying a discharged convict to India, of a sufficiently heavy fine to cover the cost of such person's deportation in the event of his becoming a vagrant.

He believed, he might say, that that provision was introduced into the Act in special reference to the class of persons sent from the Colonies to India in charge of horses. The majority of that class notoriously represented the refuse of the colonial population, men who would not come to India, where there was little or no prospect of their obtaining permanent employment, without any provision for their return journey, if they could obtain an honest livelihood at the Colonies.

It was with the well-ascertained fact before the Council that that class had largely supplied the ranks of vagrancy for which they were legislating, that that provision had been enacted; and what he now desired to learn was whether due care had been taken to give effect to its object, for it seemed to him that, if this Bill was to be passed without further enquiry and another means thereby secured of meeting the difficulty which that provision was chiefly designed to obviate, there was great risk of the penal enactment being wholly overlooked and becoming a dead letter.

The Hon'ble MR. STEPHEN said, in reference to the remarks of his hon'ble friend (Mr. Cockerell), that the Bill had been brought forward at the earnest recommendation of the Bengal Government, with a view to checking the arrangements by which the Australian exporters and the firms employed by them as agents for the sale of their horses, at present contrived to evade the law. Those persons knew perfectly well what they were about, and there was

no particular reason for showing them much indulgence. They had shown some ingenuity in rendering the law inoperative, and the object in view now was to provide that the intention of the Legislature should be carried out. There could be no doubt, that when horses were imported into this country in charge of grooms, and those grooms immediately became vagrants and were thrown on the public for support, the importer of the horse was the proper person to pay. The only way to get at the importer was to make the various persons, whom the owner employed in this country in connection with the sale of the horses, responsible.

With regard to the second point referred to by his hon'ble friend, Mr. STEPHEN said that the Bengal Government were fully alive to the evils entailed by the present system, and would be very unlikely not to put section twenty-five of the Act into force whenever opportunity afforded. It might often, however, happen that cases might require to be dealt with, to which the provisions of that section would not apply, and the present Bill was intended to meet those cases.

His Excellency THE PRESIDENT suggested that the Committee should have instructions to report in four weeks.

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN also moved that the Hon'ble Mr. Egerton be added to the Select Committee on the Bill for the registration of Criminal Tribes and Eunuchs.

The Motion was put and agreed to.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL asked leave to postpone his Motion for leave to introduce a Bill for declaring the local extent of the Acts of the Legislative Council of the Governor General.

Leave was granted.

PENSIONS' BILL.

The Hon'ble MR. COCKERELL then moved that the Hon'ble Mr. Egerton be added to the Select Committee on the Bill to consolidate and amend the law relating to Pensions.

The Motion was put and agreed to.

NORTHERN INDIA CANAL AND DRAINAGE BILL.

The Hon'ble Mr. STRACHEY moved that His Honour the Lieutenant-Governor of the Panjáb be added to the Select Committee on the Bill to regulate the construction and maintenance of public works for Irrigation, Navigation and Drainage. He said that he was anxious, with His Excellency's permission, to say a few words in explanation of the course which had been pursued with reference to the Bill. Considerable progress had been made by the Select Committee in the consideration of various details of the Bill before the Government left Calcutta. Much, however, still remained for disposal, and it appeared that there were such serious differences of opinion in the Committee as to several points, that Colonel Strachey, who had charge of the Bill, recorded his opinion in a paper which was before the Council, that, so far as the North-Western Provinces were concerned, it was expedient to abandon the proposed legislation altogether and to confine the operation of the present Bill to the Panjáb, where the Irrigation Department was anxiously asking for the measure, and where the Lieutenant-Governor was understood to approve of it and to consider its immediate introduction a matter of importance. It was thought, too, that, if the Bill was restricted to the Panjáb, there would be especial propriety in proceeding with it at Simla, where they had the advantage of the presence of His Honour the Lieutenant-Governor and of a large number of experienced officers. This view was much strengthened when his hon'ble friend, Mr. Egerton, became a member of the Council. Although he (Mr. STRACHEY) had at one time been disposed to think the conclusion inevitable, that the only practicable course was to confine the measure to the Panjáb, circumstances now seemed to be different. A letter had been addressed to the Government of India by that of the North-Western Provinces, in which it was stated that His Honour the Lieutenant-Governor "observed, with much regret, that the Bill for regulating Irrigation in Upper India had not yet passed into law;" that serious loss and inconvenience arose from the delay; and that the passing of the Bill with all possible expedition was earnestly recommended. The letter went on to say that till the Bill was passed, the Government had no legal control over beds of rivers, and could not interfere with private dams, however desirable on public grounds such interference might be; and, moreover, that considerable loss of income had resulted from the present defective condition of the law. From this letter MR. STRACHEY inferred that the objections which were supposed to exist to the extension of the Bill to the North-Western Provinces, had no valid grounds. The Bill would, therefore, be now proceeded with in Committee, and as it had at any rate, in regard to most of its principal provisions, the approval of the Lieutenant-Governors of both

Provinces, he trusted that no difficulty in dealing with it need be apprehended. Mr. Egerton had consented to take up the Bill, and his experience and knowledge of the subject would give the Council and the public full assurance that it would be dealt with in a wise and careful manner.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble Mr. STRACHEY also moved that the Hon'ble Mr. Egerton be added to the Select Committee on the following Bills:—

To regulate the construction and maintenance of public works for Irrigation, Navigation, and Drainage.

To consolidate and amend the law relating to advances of money by the Government for the improvement of land.

To facilitate the construction of works of public utility from Local and Municipal Funds.

The Motion was put and agreed to.

LOCAL PUBLIC WORKS BILL.

The Hon'ble Mr. STRACHEY also, with His Excellency's permission, moved that the Hon'ble Mr. Ellis be added to the Select Committee on the Bill to facilitate the construction of works of public utility from Local and Municipal Funds.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to amend the European Vagrancy Act, 1869:—The Hon'ble Messrs. Ellis, Cockerell and Egerton and the Mover.

The Council adjourned to Tuesday, the 25th July 1871.

H. S. CUNNINGHAM,

SIMLA; }
The 18th July 1871. }

*Offg. Secy. to the Council of the Governor
General for making Laws and Regulations.*