

Friday, January 14, 1870

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 Government House on Friday, the 14th January 1870.

P R E S E N T :

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

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

The Hon'ble G. Noble Taylor.

Major General the Hon'ble Sir H. M. Durand, C. B., K. 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 Gordon S. Forbes.

The Hon'ble D. Cowie.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

His Highness Sarámade Rájáháe Hindústán Ráj Rájendra Sri Mahárájá
Dhiráj Sivái Rám Singh Bahádur, of Jaypúr, G. C. S. I.

The Hon'ble F. R. Cockerell.

QUARANTINE RULES BILL.

The Hon'ble MR. CHAPMAN moved that the Report of the Select Committee on the Bill to provide Rules relating to Quarantine be taken into consideration. He said that, when he introduced the Bill, he stated that it would provide for both inland and maritime quarantine. On further consideration, however, it had been found that, in order to secure effectual sanitary rules for the multitudes resorting to fairs and sacred places, it would be necessary to pass a far more comprehensive measure. Thus, it would not only be necessary to meet the case of places where infectious diseases prevailed, but also the case of places where there were grounds for apprehending an outbreak of such diseases. Above all, it would be necessary to authorize the levy of taxation to cover the expenditure on account of the medical and other arrangements that would have to be made. On these grounds, the Select Committee had come to the conclusion that it would be advisable to limit the Bill to seaports, leaving for further consideration, either by this Council or the

Councils of the several Local Governments, the question of inland quarantine. He believed that a law to regulate inland quarantine was greatly needed, and that it would be found to interpose an effectual barrier against the inroads of cholera. It was with extreme regret that the Select Committee found themselves obliged to confine the operation of the Bill to the establishment of a system of quarantine in the seaport towns; but the subject of inland quarantine would not be lost sight of.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

SUBORDINATE JUDGES AND MUNSIFS BILL.

The Hon'ble MR. COCKERELL moved that the Report of the Select Committee on the Bill to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William be taken into consideration. In doing so he said that, in the opinion of the Select Committee, the provisions of the Bill as introduced were sufficient to attain its objects, and no alteration had therefore been recommended.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the Bill be passed.

The Motion was put and agreed to.

COURT FEES BILL.

The Hon'ble MR. COCKERELL also presented the Report of the Select Committee on the Bill to provide for the better regulation of Court fees.

AGROR VALLEY BILL.

The Hon'ble MR. STEPHEN moved that the Bill to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts be passed.

The Motion was put and agreed to.

HINDU WILLS BILL.

The Hon'ble MR. STEPHEN also presented the Report of the Select Committee on the Bill to regulate the Wills of Hindús and Buddhists in the Presidency Towns.

HIGH COURTS (COSTS OF PETITIONS) BILL.

The Hon'ble MR. CHAPMAN introduced the Bill to enable the High Courts at the presidency towns to deal with costs of petitions for certain monies transferred to Government, and moved that it be referred to a Select Committee with instructions to report in a fortnight. He said that the Bill would deter parties from making idle and unfounded applications, as it would enable the Courts at their discretion to saddle such parties with costs.

The Motion was put and agreed to.

FEMALE INFANTICIDE BILL.

The Hon'ble MR. STRACHEY, in moving for leave to introduce a Bill for the prevention of female infanticide, said that the prevalence of female infanticide in many parts of India had long been a matter of unhappy notoriety. From time immemorial, this crime had been practised in many parts of India, and especially in the North of India, by many tribes of Rájputs. Although, speaking generally, it might be said that the crime was peculiar to the Rájputs, still this was not, strictly speaking, true; for there were other tribes of Hindús with whom the practice was common, and in some parts of the country female infanticide was practised even by some classes of Muhammadans. The first Englishman, he believed, who, he might say, discovered the existence of this horrible system of crime, was the well known Jonathan Duncan, who, after eighty years, was still remembered with respect and affection in the Benares District. In 1789, when he was Resident at Benares, he first made known the wide-spread prevalence of this crime among the Rájputs of the Benares Division, and he exerted his influence to the utmost to induce the people who practised it to abandon the commission of the crime. Two Regulations were passed not long afterwards specially directed against this crime, Regulation XXI of 1795 and Regulation III of 1804; but the measures taken under those Regulations practically had very little effect, and they certainly had led to no permanent result. For some forty years after those Regulations had been passed, almost nothing seemed to have been done on this side of India with the object of repressing the practice of infanticide. It was not till the year 1836, when Mr. Thomason was making a settlement of Azimgarh, that he discovered the prevalence of the crime in that district. This admirable man and wise statesman, to whom India owed, on many grounds, a deep debt of gratitude, was the first, in modern times, on this side of India, who directed his mind to the prevention of this crime. He found that it was commonly practised in the Azimgarh District by Rájputs on the borders of the Oudh terri-

torics, and he stated that, among a body of Rájputs numbering some 10,000, "not a single daughter was forthcoming." MR. STRACHEY was quoting from the excellent account of Indian Infanticide by the Revd. Cave Browne :—

"I do not think," Mr. Thomason wrote, "it is generally known that the horrible practice so extensively prevails even at our own doors. I myself discovered it accidentally whilst engaged in revising the settlement of the pargana. In conversation with some of the zamíndárs, I happened to mention one of them as the son-in-law of another. The mistake raised a sarcastic laugh, which was explained by the brief exclamation of a bystander :—'Where will you find a daughter in Kooha?' Inquiry once roused, the truth was palpable. They freely admitted the practice themselves, and it was a matter of notoriety. These Rájputs," Mr. Thomason went on to say, "are a fine, manly, independent race of men. There are few whom I have seen of more prepossessing address. Their tribe have formed of old high alliances, and they have served on regal establishments. * * They pride themselves on giving their daughters in marriage only to the members of certain tribes on an equality with themselves or their superiors. Matches are difficult to be obtained, and attended with great expense, which they can ill bear, and are almost certain to cause the alienation of the whole, or a great part, of their hereditary lands. Hence the birth of a daughter is considered a most serious calamity, and the unfortunate infant is very seldom spared."

Mr. Montgomery, now Sir Robert Montgomery, was then an Assistant to Mr. Thomason. Shortly afterwards he became Magistrate of Allahabad, and he found that the crime prevailed also in that district to a terrible extent. Soon after similar investigation showed the extreme prevalence of the crime in the Northern parts of the Doáb. Mr. Unwin, the Magistrate and Collector of Mainpuri, was the first to bring the fact to light in that part of the country : he found in that district that, among the Chohán Rájputs, who were very numerous, there was hardly a single female child, young or old, forthcoming. In Etáwa, Mr. Monckton soon afterwards found the same, and Mr. Gubbins made the same discovery in Agra. The higher the rank of the family, the more commonly and the more systematically was the crime practised. Thus, Mr. Raikes, who was Magistrate and Collector of Mainpuri and who devoted himself most energetically and successfully to the suppression of the crime, in his work called "Notes on the North-Western-Provinces," wrote as follows :—

"There is at Mainpuri an old fortress, which looks far over the valley of the Eesun River. This has been for centuries the stronghold of the Rájá of Mainpuri Chohans, whose ancient blood, descending from the great Pirthá Ráj and the regal stem of Ním-rána, represents *la crème de la crème* of Rájput aristocracy. Here, when a son, a nephew, a grandson, was born to the reigning chief, the event was announced to the neighbouring city by the loud discharge of wall-pieces and matchlocks ; but centuries had passed away, and no infant daughter had been known to smile within those walls."

Shortly afterwards the first Panjáb war occurred, and in 1846 the Jalandhar Doáb was annexed to the British territories. Lord Lawrence was Commissioner of the new Division, and he found this practice equally prevalent there. It was found, subsequently, that there were other tribes besides the Rájputs in the Panjáb, who commonly practised the same crime, especially the Bédís, a numerous and very influential class of Sikhs of a sacerdotal character, said to be descended from Guru Nának, the founder of the Sikh faith. From that time, the more enquiries were made, the more was the prevalence of this crime in Northern India established. In 1856 an officer was appointed to make special investigations into the facts in the Benares Division, and MR. STRACHEY would quote to the Council some of the facts discovered by Mr. Moore during his enquiries carried on at Benares. Similar facts were quite as true in many other parts of the North-Western Provinces, of Oudh and of the Panjáb. In the Benares Division, Mr. Moore personally visited and made most minute investigations into the facts in three hundred and eight villages in which he found reason to suspect that the crime prevailed. In sixty-two of these villages he found that there were no female children under the age of six years. In one sub-division of the district he visited thirty-eight villages, and in ten of them he found no girls at all. He found that marriages of girls were of very rare occurrence; in some villages there had not been any within the recollection of the present generation. In one village, in which there was not a single girl under six years and only two above that age, the Rájputs could give no account whatever with what tribes they intermarried, nor of the expenses attending marriages. In another village there, no girl had been married for twenty-five years. In another part of the Division, Mr. Moore found a community of Hári Rájputs, inhabiting villages on the borders of Oudh, regarding whom he said—

“Not only are there no girls to be found in their houses now, but there never have been any, nor has such an event as the marriage of a daughter taken place for more than two hundred years. This is their own confession, nor have they the remotest idea as to what tribes their daughters would be married with, nor how much such a marriage would cost.”

Whenever Mr. Moore went amongst these particular classes, he found the same results. In another group of thirty villages he found that, in twenty, the total number of female children under six years of age was only thirty-seven, while there were three hundred and thirty-nine boys of the same age: in eleven villages there were no girls at all, and no marriage of a girl had taken place within the recollection of the oldest inhabitant.

Shortly after these enquiries occurred the mutinies of 1857, and, as might have been expected, the whole subject was then for some time lost sight of. But

after the re-establishment of order the subject again attracted the attention of Government. In Oudh, in particular, it was found that the custom was terribly prevalent, and active measures were taken by Sir Charles Wingfield with the help of the taluqdárs to put a stop to the practice.

Although in many parts of the country, a great deal had undoubtedly been done to check the crime, MR. STRACHEY feared that there could be no question that it was really at the present time almost as prevalent as ever. Only a year ago a minute investigation was made by the orders of the Lieutenant Governor of the North-Western Provinces in the District of Basti by Mr. Hobart. He conducted his investigation with great care and judgment, and the conclusions to which he came were the same as those arrived at ten years previously by Mr. Moore, of which MR. STRACHEY had just given some account to the Council. For example, Mr. Hobart examined a group of ten villages inhabited by Rájputs, and in seven of them he found one hundred and four boys and only one girl, and the people admitted that, for the previous ten years, only one girl had been married. In another group of twenty-seven villages, he found, in twenty-three villages, two hundred and eighty-four boys, but only twenty-three girls, and in ten other villages he found that the marriage of a girl was an unknown ceremony. Again, there was another group of sixteen villages, in four of which no girls existed, and in nine other villages there were seventy-one boys and seven girls.

But MR. STRACHEY need not continue these terrible illustrations of the prevalence of this crime. The accounts that were given would seem absolutely incredible if they were vouched for on less unimpeachable authority.

The causes which had led to this terrible prevalence of female infanticide had already been generally indicated in the passage from Mr. Thomason's Report which MR. STRACHEY had read to the Council; but he would also read a passage from Mr. Raikes' book, which stated very plainly what the real causes of the crime were. Mr. Raikes, than whom there could be no higher authority, for he was one of the first and most successful of the officers who had endeavoured to contend against this crime, wrote as follows:—

“ At the very root of the evil stands this principle—The Hindú disbelieves the purity of the sex; a daughter arrived at puberty *must*, he thinks, be married or be disgraced. When he seeks a husband for her, it *must* be in his own caste; but it *must* also be in a sub-division of that caste, higher, if possible, but at all events differing from, his own. To marry in one's own sub-division is impossible; such an union would be set down as incestuous. Disgrace is attached to marriages with men of inferior relative rank. ‘The owner of a hyde of land, whether Sisodia, Ráhtor, or Chohán, would scorn the hand of a Járejá princess.’ What then

is a Rájput father to do with his marriageable daughters? He must, it is clear, seek a husband for them in a rank equal to his own, or in a higher rank. But if his own sub-division be high, if he be a Chohán or a Ráhtor, he will not easily find such a son-in-law; or, if he do find him, will have to pay high in hard coin for blood and rank. And this is why a Rájput mourns when a daughter is born to him, and rejoices when he has a son. The one brings disgrace, anxiety, or at least heavy expense upon his house; the other increases his wealth and his dignity."

Thus this necessity of getting his daughter married to a man of at least the same class as himself, and if possible of a higher rank than himself, brought on the high caste Rájput something of personal degradation. The father of a married daughter came to be looked upon as inferior to her husband, and the very name of "father-in-law" had become one of the commonest terms of insult and reproach.

"A Rájput, of the present day," writes Mr. Raikes, "is subject to his son-in-law hand and foot, can refuse him nothing, and, without disgrace, cannot accept so much as a meal at his hands."

Although all this was not strictly true, except of some classes of Rájputs, still there could be no doubt that these feelings of family pride had been at the root of this great evil. It had followed as a natural consequence that the most extravagant and ruinous expenditure had been incurred by these people in the marriages of their daughters, and this had been admitted on all hands to be one of the greatest immediate causes of the crime. Marriage-expenses were frequently so enormous that the marriage of a daughter literally proved the permanent ruin of the family, and under these circumstances a Rájput preferred that his daughter should perish rather than that he should be placed under the necessity of incurring expense for her dower to an amount, than which if he gave less he would consider himself disgraced. But after all, the real great reason for the crime at the present moment might be considered to be custom—immemorial custom—which Manu declared must be looked upon "as transcendent law and the root of all piety." There could be no doubt that these people murdered their children from generation to generation mainly because their forefathers had done so before them, with hardly an idea that there was anything criminal in the practice.

As to the remedies to be applied to this great evil, there was fortunately no reason to doubt, because we had ample actual experience to show us how the crime could be dealt with. The measures that had been taken had been of two kinds. The first class of measures had been those which aimed at the removal of the causes which led to the commission of the crime, and especially to the prevention of extravagant expenditure on marriages. The second class of measures had been of a coercive and directly preventive character. The first sort of measures evidently must mainly depend on the action taken by the people them-

selves; the other class of measures on the action of the Government. There had been considerable success in some parts of the country in inducing the Rájputs themselves to agree to limit their marriage-expenses. Mr. Raikes was the first to initiate measures of this kind at Mainpuri; they were afterwards followed up on a great scale, and with very great success, in the Panjáb, under the orders of Lord Lawrence, Sir Robert Montgomery, Sir Donald Macleod and others, and also in Oudh and elsewhere, and, there could be no doubt, had been very useful. There was a strong sense among the people themselves of the extreme folly of spending all this money on marriages, and it had been proved by experience that, with a little help and pressure put on them by the officers of Government, they were often glad to limit these expenses. While MR. STRACHEY believed that measures of this character, which struck at the very root and causes of the evil, were of the utmost value and importance, he thought there could be no doubt that the measures which had been practically the most successful had been those of active though judicious prevention and coercion. The measures of this character on this side of India were, MR. STRACHEY believed, first adopted by Sir Robert Montgomery. They were followed up afterwards very actively by Mr. Unwin, Mr. Gubbins and others, in the North-Western Provinces, in the Panjáb, and in Oudh, and MR. STRACHEY might give illustrations of the great success of those measures by a few facts. In 1842, Mr. Raikes found that there was hardly a Rájput girl living in the District of Mainpuri. Nine years afterwards, in 1851, there were one thousand four hundred and eighty-eight girls found alive, and, in 1855, the number had risen to two thousand five hundred and thirty. Similar results had been observed in the Agra District. The measures taken by Mr. Gubbins led, in a very few years, to the doubling of the number of female Rájput children; the same had happened in the Panjáb and Oudh, and indeed everywhere where preventive measures had been taken. These measures had been of a very simple character. They had consisted mainly, in the first place, in the introduction of an effective system of registration of births and deaths in suspected localities, and in a constant system of periodical inspection and enumeration of children. It had been found, in practice, that these measures had the effect of saving the lives of a large number of children when they were born: If a child was not killed immediately after birth, it might be considered safe; and it might be confidently said that experience had proved in a most unmistakeable way, that it was quite in the power of the Government of India to eradicate, or at any rate enormously to diminish, this crime. But the authorities in all parts of the country where the crime was practised had come to the most decided conclusion that it was necessary that measures for the prevention of the crime should be taken much more systematically and continuously than any that had hitherto been attempted, and to enable them to carry out completely the measures that were

necessary, legislation was absolutely required. It had been acknowledged on all hands that the existing law was altogether insufficient.

MR. STRACHEY said that he could not now enter into details regarding the Bill which he proposed to introduce; that would be done more properly hereafter. It was sufficient now to say that the Bill proposed little more than to give to the Local Governments legal authority to do, completely and systematically, that which had already been imperfectly done in many parts of the country. There was no real novelty in what was now proposed. The Bill had been already sent to the several Local Governments and Administrations, and in all substantial respects it had been entirely approved by them. He thought that the Council would agree with him when he said that a stronger case for legislation could hardly be imagined. The British Government had borne too long with this abomination, and he hoped that the time had come in which the Government would show to the world that it had finally and firmly resolved that these things should cease. He could not, for his part, doubt that it was in the power of the Government to bring about this end. Some people had talked of the political danger of rudely interfering with these atrocious practices. For his own part, MR. STRACHEY was quite confident that there was no danger of the kind. We were told the same thing when suttee was prohibited, and there were not wanting people to tell us the same at every such step that was made for the moral improvement and enlightenment of the people of this country. This talk of political danger was baseless and foolish, but he would say, for his part, that even if it were true that such danger existed, that was no reason for allowing such abominations as this to continue. Whatever might be the consequences, it was the duty of the British Government to declare that it would not suffer any longer the continuance of these horrible practices in any part of its dominions, and that it would put forth the whole of its power for their repression.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to enable the High Courts at the Presidency Towns to deal with costs of petitions for certain monies transferred to Government—The Hon'ble Messrs. Stephen, Gordon Forbes and Cockerell and the Mover.

The Council adjourned to Friday, the 21st January 1870.

WHITLEY STOKES,

Secy. to the Council of the Govr. Genl.

for making Laws and Regulations.

CALCUTTA, }
The 14th January 1870. }