

Friday, June 18, 1869

**ABSTRACT OF PROCEEDINGS**

**COUNCIL OF THE GOVERNOR GENERAL OF INDIA**

**LAWS AND REGULATIONS.**

**VOL 8**

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**P L**

*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.*

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The Council met at Simla on Friday, the 18th June 1869.

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.

Major-General the Hon'ble Sir H. M. DURAND, C.B., K.C.S.I.

The Hon'ble H. SUMNER MAINE.

The Hon'ble JOHN STRACHEY.

The Hon'ble B. H. ELLIS.

The Hon'ble F. R. COCKERELL.

BHUTÁN DVÁRS BILL.

THE Hon'ble MR. COCKERELL said that the Bill was in form similar to Act No. XXVI of 1866—an enactment for legalizing certain rules made by the Chief Commissioner of Oudh relative to the determination of the interests of certain classes in land.

It provided for the exclusion of the jurisdiction of the ordinary Civil Courts in matters relating to land and the produce thereof within the tract of country known as the Bhután Dvárs, and transferred the adjudication of such matters to the Courts of the Officers specially appointed in that behalf by the Local Government to whose control the Bhután Dvárs territory was subject.

The Bill proposed to give the force of law to certain rules which had been prepared by that Local Government, and were set forth in the Schedule.

These rules purported to create a special form of procedure for the guidance of the Courts which were to be substituted for the ordinary Civil Courts in the adjudication of the matters referred to, and their practical effect would be to supersede, so far as they were inconsistent with its provisions, the Code of Civil Procedure which now governed the action of the Courts in the Bhután Dvárs.

When the Bill was referred to a Select Committee, there were two points which would need the Committee's special consideration.

Section 1 provided that the jurisdiction of the ordinary Civil Courts in all matters relating to land and the revenue or rent thereof should cease absolutely from the date on which the Bill became law, but no express provision was as yet made in regard to the disposal of pending suits or appeals, whether then instituted or about to be instituted, against the decisions passed in original suits by those Courts.

The necessity for the proposed legislation arose out of the conclusion that the cognizance of the suits and matters to which the Bill referred by the ordinary Civil Courts had already been attended with mischievous results; hence the policy of the Bill had as much application to pending suits and appeals as to suits that might be hereafter instituted, and it was thought that, unless the exclusion of the present Courts' jurisdiction were extended to such cases, the object of the Bill would be imperilled and liable to be defeated.

The other point was the duration of the proposed enactment. It was certainly not desirable to maintain the exceptional course of excluding the jurisdiction of the ordinary Courts in regard to any civil matters after the special object of that exclusion had been accomplished.

The authority most competent to determine when the operation of the Act should cease was the Lieutenant-Governor of Bengal, and the natural course would be to provide for its cessation on the duly published order of the Government of Bengal; but an obstacle to this mode of dealing with the question arose out of the relations between the Local Government and the High Court, which made it inexpedient that the jurisdiction of the latter should be in any way varied or affected by the order of the latter. It would probably be found necessary, therefore, to insert a provision similar to that contained in Act XVI of 1865—an enactment defining the jurisdiction of the Revenue Settlement Courts in Oudh—for determining the operation of the Act on the executive order of the Governor General in Council.

The Motion was put and agreed to.

The following Select Committee was named—On the Bill to exclude the ordinary Civil Courts from the cognizance of suits relating to land in the

Bhután Dvárs, and to legalize certain rules for the settlement of the said territory:—the Hon'ble Messrs. Maine, Ellis and the Mover.

The Council then adjourned to Friday, the 2nd July 1869.

WHITLEY STOKES,

*Secy. to the Council of the*

*Govr. Genl. for making Laws and Regulations.*

SIMLA,  
The 18th June 1869. }