

Friday, August 27, 1869

ABSTRACT OF PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 8

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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 pro-
visions of the Act of Parliament 24 and 25 Vic., cap. 67.*

The Council met at Simla on Friday, the 20th August 1869.

The Council adjourned to Friday, the 27th August 1869.

WHITLEY STOKES,

*Secy. to the Council of the Govr. Genl.
for making Laws and Regulations.*

SIMLA, • }
The 20th August 1869. }

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assembled for the purpose of making Laws and Regulations under the pro-
visions of the Act of Parliament 24 and 25 Vic., cap. 67.*

The Council met at Simla on Friday, the 27th August 1869.

PRESENT:

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.

The Hon'ble Colonel R. STRACHEY.

The Hon'ble COLONEL STRACHEY took the oath of allegiance and the oath
that he would faithfully discharge the duties of Additional Member of the
Council of the Governor General for making Laws and Regulations.

VOLUNTEER CORPS BILL.

His Excellency the COMMANDER-IN-CHIEF said that it had just been pointed out to him that the Volunteer Corps Act (No. XXIII of 1857), of which the present Bill proposed to amend the first section, required amendment in the eighth section also. That section provided that where a volunteer quitted his corps, he should deliver up his arms and uniform; that in default of doing so, he should pay a sum to be determined by a Regimental Court Martial, and that the adjudication of that Court should be deemed a judgment which might be enforced by any Civil Court under the provisions of Acts XXIII of 1852 and XXXIV of 1855. But those Acts had both been repealed by Act No. X of 1861, except as to the judgments of Charter Courts and Military Courts of Requests. Under these circumstances, he proposed, with the President's permission, to move that the Bill be referred to a Select Committee with instructions to report in a week.

The Motion was put and agreed to.

ADMINISTRATION OF ESTATES (HYDERABAD ASSIGNED DISTRICTS) BILL.

The Hon'ble MR. MAINE presented the report of the Select Committee on the Bill to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts.

GÁRO HILLS BILL.

The Hon'ble MR. COCKERELL asked leave to introduce a Bill to remove the Gáro Hills from the jurisdiction of the tribunals established under the general Regulations and Acts. He said that early in the present century raids by the rude tribes occupying the Gáro Hills upon the inhabitants of the neighbouring villages in the plains on the north-east frontier of the Rangpúr district, resulting generally in the plunder of property and sacrifice of life, were of frequent occurrence. A special commission was appointed to enquire into and report on the causes of these outrages, and in this enquiry it was established that these acts of violence on the part of the mountaineers originated in the attempts of the Zamindárs whose estates bordered on the hill-country to levy from the people occupying that tract certain cesses which they claimed as an asset of the permanent settlement under which those estates were held.

To remedy this state of things, Bengal Regulation X of 1822 was enacted, and the policy of the Government in regard to these hill-tribes was thus set forth in the preamble to that enactment:—

“The condition of the Gáro mountaineers and of the other rude tribes on that frontier has for some time past attracted much of the attention of the Governor General in Council, and the circumstances which have conduced to check the progress of civilization amongst them have been fully investigated and ascertained. With a view, therefore, to promote the desirable object of reclaiming these races to the habits of civilized life, it seems necessary that a special plan for the administration of justice of a kind adapted to their peculiar customs and prejudices should be arranged and concerted with the head men, and that measures should at the same time be taken for freeing them from any dependence on the Zamíndárs of the British provinces; compensation being, of course, made to the latter for any just pecuniary claims they may have over them.”

That policy has been but imperfectly carried out. The provisions of Regulation X comprehended the suspension of the operation of the general Regulations within the tract to which it applied, the creation of the office of special Commissioner for the administration of justice and superintendence of revenue matters in supersession of the then existing tribunals, the prohibition of all attempts on the part of the Zamíndárs to exact cesses from the hill-tribes, and the compensation of the former for this compulsory surrender of any claims which might, on examination, prove to be well founded.

But these provisions came into operation only within that portion of the Gáro Hills which bordered on the districts of Rangpúr and Gawálpurí. In the southern range contiguous to the district of Maimansingh the relations between the Zamíndárs and the hill-tribes remained on much the same footing as they were previously to the enactment of Regulation X of 1822.

In the early part of 1866 the disputes arising out of the measures taken by the Rájá of Susang, a Zamíndár in the district of Maimansingh, to realize the cesses which he claimed from the Gáros as the occupants of land included within his permanently settled estates, culminated in a retaliatory attack by those tribes on one of the Rájá's villages, in which several persons were killed or wounded.

The office of special Commissioner had become long previously merged in that of Commissioner of Assam, and the immediate superintendence and administration of the tract of country occupied by the Gáros had devolved upon the

Deputy Commissioner of Gawálpára, whose sphere of duties was too extended to admit practically of his devoting attention to the chief aim of the former special legislation in regard to these tribes.

The Government resolved, therefore, on the appointment of an officer for the administration of the Gáro Hills, who should be exclusively employed in carrying out the policy of that legislation the main object of which was, as stated in the preamble to Regulation X of 1822, to which MR. COCKERELL had already referred the "reclamation of these races to the habits of civilized life."

The severance of the connection between the Zamíndárs of the plains and the hill-tribes, and the suspension of the operation within the entire tract of country occupied by the latter of the general laws and regulations were, however, essential to the success of that administration. But the action of the Government in this direction was rendered nugatory by the High Court's construction of the scope of Regulation X of 1822 in the course of a suit which had been instituted by the Rájá of Susang against the Government.

It had been assumed that as the policy of that Regulation was obviously applicable to the entire country occupied by the Gáros, and by its eighth section the power of "separating temporarily or permanently *any tract of country occupied by Gáro mountaineers or other rude tribes* from the estates of any neighbouring Zamíndárs" to which the same was, or was claimed to be attached, was specifically vested in the Government, the latter could apply the provisions of the enactment at its discretion to the entire country included within the range of the Gáro Hills. But the High Court ruled that the exercise of this power was restricted to the limits of the Tháná divisions specified in the second section of the Regulation.

It had thus become necessary to supply the assumed deficiencies of Regulation X of 1822 by fresh legislation; and it was proposed to provide in the Bill, which he now asked leave to introduce, for the suspension of the operation of the general laws and regulations relating to the constitution and procedure of the ordinary courts of justice and offices of revenue within the entire country known as the 'Gáro Hills', and for the cessation of all interference on the part of the Zamíndárs of the plains with the tribes inhabiting the tract in question; as well as for the compensation of any just claims of the former which might be shewn to be prejudiced thereby.

It was further proposed to repeal a portion of Act VI of 1835, under which enactment the High Court at Fort William exercised a certain jurisdic-

tion and controul over the political officer in charge of the Khásyá and Jintiaá Hills. As the British Government claimed no title of sovereignty over the Khásyá Chiefs, and the Khásyá Hills have never been held to be a part of British territory, it is doubtful whether the legislature had, under a proper limitation of its functions, the power of conferring this jurisdiction on the High Court. The inexpediency of suffering such jurisdiction to continue seemed to be unquestionable.

The following Select Committee was named on the Bill to amend Act No. XXIII of 1857:—the Hon'ble Messrs. Maine and Cockereil and the Mover.

The Council adjourned to Friday, the 3rd September 1869.

WHITLEY STOKES,

*Secy. to the Council of the Govr. Genl.
for making Laws and Regulations.*

SIMLA, }
The 27th August 1869. }