

Friday, September 24, 1869

ABSTRACT OF PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 8

1869

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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 and 25 Vic., Cap. 67.

The Council met at Simla, on Friday the 24th September 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 JOHN STRACHEY.

The Hon'ble B. H. ELLIS.

The Hon'ble F. R. COCKERELL.

Colonel the Hon'ble R. STRACHEY.

THE HON'BLE H. S. MAINE.

His Excellency the PRESIDENT said,—

“I wish to give notice that, at the first meeting of the Council at Calcutta, I shall move a resolution expressive of the high sense which his colleagues entertain of the long, faithful and valuable services of the Hon'ble Henry Sumner Maine; and I shall ask the Council to concur with me in expressing regret for his departure, and sincere wishes for his future welfare and happiness.”

GÁRO HILLS BILL.

The Hon'ble MR. COCKERELL moved that the report of the Select Committee on the Bill, to remove the Gáro Hills from the jurisdiction of the tribunals established under the General Regulations and Acts, be taken into consideration. He said that the scope of the Bill was somewhat enlarged by the amendments proposed by the Select Committee. As originally framed, the Bill contemplated only the suspension, within the territory inhabited by the Gáro

and other hill-tribes, of the jurisdiction of the ordinary Courts and the laws relating to procedure; but it was represented to the Committee that these provisions might advantageously be extended to the temporary abrogation of all laws within that territory. There could be no doubt that all the revenue laws, and more particularly Acts, imposing some special form of taxation, as for instance the Certificate or Income Tax Acts, were wholly inapplicable to the circumstances of these tribes. In fact, whenever any fresh legislation of the latter description took place, the Local Government was compelled to move the Government of India to exempt the inhabitants of the territory to which this Bill referred. And although the provisions of the criminal, were generally more applicable than those of the fiscal, law to the condition of these people, yet the punishments fixed by the Penal Code for certain offences were not, in many cases, the best adapted to such offences when committed by a semi-barbarous race. For example, murder, which amongst civilized people was regarded as the most heinous crime, and for which the criminal law provided extreme penalties, would, when committed in pursuance of blood feuds between rival hill-tribes, and viewed by the extenuating light of the obligations imposed by their savage customs, assume a much less heinous character, and might be more suitably dealt with by the infliction of a penalty widely differing from that fixed by the law.

Moreover, this extension of the scope of the Bill went no further than the provisions of Regulation X of 1822, which this Act was designed to supersede, and was not consequently calculated to effect any alteration of the existing status in that portion of the Gáro Hills in which that regulation was in force.

Provision had been made, therefore, in the amended Bill for the cessation of the operation of all the Laws and Regulations within the territory comprised in the present measure. At the same time, a discretionary power was vested in the Local Government of extending to such territory, from time to time, so much of the existing law as might seem suitable to the circumstances of the inhabitants.

The clause excepting from the operation of the proposed Act all cases pending at the time of passing it, had been excluded from the amended Bill, as, in the opinion of the Committee, the policy of the present legislation is as applicable to such cases as to those which might arise after the Act comes into operation.

It was further proposed to provide for the extension of the Act by the Local Government to so much of the Khási Hills as formed part of British territory, and to the Nágá and Jintíá Hills.

When MR. COCKERELL asked leave to introduce this Bill, he explained, as the reason for rescinding the enactment from which the High Court derived certain jurisdiction within the Khási Hills, that in fact those hills were not included in British India. That statement had reference to the greater part of that territory, but there was a small portion, he believed a very small portion, of those hills which was annexed to British territory.

The degree of civilization attained by the people inhabiting this tract, or by the Nágas, or the inhabitants of the Jintíá Hills, was scarcely greater than that of the Gáro tribes; and the system of administration of justice adapted to the circumstances of the people was as crude in the former as in the latter case.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

The Council then adjourned *sine die*.

SIMLA,
The 24th Sept. 1869. }

WHITLEY STOKES,
Secy. to the Council of the Govr. Genl.
for making Laws and Regulations.