

Tuesday, February 15, 1876

**COUNCIL OF THE GOVERNOR GENERAL  
OF INDIA**

**VOL. 15**

**JAN. - DEC.**

**1876**

**P. L.**

ABSTRACT OF THE PROCEEDINGS

1877

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1876.

WITH INDEX.

VOL. XV.



Published by the Authority of the Governor General.

Gazettes & Debates Section

Parliament Library Building

Room No. FB-025

Block 'G'

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.

1877.

*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 Government House on Tuesday, the 15th February 1876.

**PRESENT :**

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

His Honour the Lieutenant-Governor of Bengal.

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

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

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble Sir W. Muir, K. C. S. I.

The Hon'ble Sir A. J. Arbuthnot, K. C. S. I.

Colonel the Hon'ble Sir Andrew Clarke, R. E., K. C. M. G., C. B.

His Highness the Mahárájá of Vizianagram, K. C. S. I.

The Hon'ble John Inglis, C. S. I.

The Hon'ble Sir Douglas Forsyth, K. C. S. I.

The Hon'ble T. C. Hope.

His Highness Mahárájá Iswariparshad Naráyan Singh Bahádur of Benares.

The Hon'ble D. Cowie.

The Hon'ble Rájá Narendra Krishna Bahádur.

**CRIMINAL TRIBES (LOWER PROVINCES) ACT EXTENSION BILL.**

His Honour THE LIEUTENANT-GOVERNOR moved for leave to introduce a Bill to extend the Criminal Tribes Act to the Lower Provinces of Bengal. The object of the Bill which he hoped to have leave to introduce was briefly this. There were certain tribes in the Provinces under the Government of Bengal who lived by thieving, and whose social condition was in several respects a disgrace—he could not use a milder expression—to a civilized community and indirectly a discredit on the Government that tolerated it, if indeed it were tolerated. Well, as the Council knew, it was much more easy to describe an evil than to provide remedies for it, and he was not sure even that a perfect

remedy could be provided. At all events, it seemed incumbent upon them to do what they could for the reclamation of these criminal people and trust to Providence for the result. The two particular tribes they had under notice were the Mugheya Domes of Bihár and the Bedyas of Eastern and Central Bengal. The Mugheya Domes were not only a nuisance to the well-disposed inhabitants, but were in several respects a dangerous class. The Bedyas were not so dangerous, but were of a thieving, predatory and wandering disposition, as he dared say some of his hon'ble colleagues on the left were well aware.

Sometime ago a Bill was passed by this legislature for registering and bringing under discipline some criminal tribes in the North-Western Provinces, and the Government of Bengal now desired to introduce a similar measure into these provinces; and inasmuch as the Bill for the North-Western Provinces was very carefully prepared and had been worked doubtless with some degree of success in that part of the country, he (THE LIEUTENANT-GOVERNOR) thought the best and simplest plan was to provide for its extension to the provinces under the Government of Bengal. One advantage of this course was brevity: a Bill with one or at most two sections would do all that was necessary, and give the Lieutenant-Governor of Bengal power to do all that it was desirable to do with regard to the predatory tribes whom he had just mentioned.

The Motion was put and agreed to.

#### NATIVE COINAGE BILL.

The Hon'ble SIR W. MUIR introduced the Bill to enable the Government of India to declare certain coins of Native States to be a legal tender in British India, and moved that it be referred to a Select Committee with instructions to report in a month. He said that he had entered last week so fully into the object of the measure and the provisions by means of which it was proposed to give effect to it, that little remained for him but to introduce the Bill. He would merely allude to the main outlines.

A condition antecedent to any action under this Bill was the expressed desire of a Native State to adopt its provisions, and in furtherance of the same to undertake certain obligations. These obligations would be found detailed in the fifth and following clauses of the fourth section. The first and chief was, that the Native State undertook to close its mint for a period of not less than thirty years, and to use the new money to be coined under this Bill as its legal currency. Then, if at the close of such period the mint were re-opened, no coin resembling the new coin was ever to be minted. We might hope that, after so long an expe-

rience of the benefits of the new system, it would become permanent ; but, under any circumstances, the period allowed for the experiment must be a long one ; and it was thought that any term less than thirty years would not be suitable for the purpose.

When the Native State had undertaken these obligations, then section two provided for the issue of a Notification, whereupon the new coins would become a legal tender in British India.

The earlier clauses of section four contained provisions regarding the coins to which the Bill would have reference. They are to be identical in weight and fineness with coins of British India. The devices on the obverse and reverse are to differ from that of any Native coins, and to be approved by the Governor General in Council ; and the value of each coin is to be inscribed on it in the English language.

His Highness THE MAHÁRÁJÁ OF BENARES said that as inconvenience and loss were constantly being felt in consequence of the number and variety of coins, some good plan should be devised to remove this inconvenience.

It was mentioned in the statement of reasons for introducing this Bill, that it would be naturally unpleasant to the Chiefs of India to give up their privilege of coining, and provision had accordingly been made in the Bill to remove this feeling. In his opinion also this important matter was deserving of greater consideration, and he hoped that the Select Committee would give their best attention to it. It would perhaps be better that, instead of Government going to the trouble of striking coins in its own mint, it should hold Native States responsible for the correctness of their standard of value and weight ; or another plan would be, that the weight and value of such coins, as compared with British rupees, should be tested and published. They would then circulate easily and without loss ; and the object of the Bill would thus be preserved, and no other ideas would arise in Native States.

His Highness THE MAHÁRÁJÁ OF VIZIANAGRAM said that the establishment of a uniform coinage throughout India would give great facilities to trade, and would also remove serious inconvenience and loss, both to the public and the State. The provisions prescribed in the Bill would, he hoped, remove the objections made by several Native States to resign the privilege of issuing coin themselves. At the same time he hoped that the Select Committee, in considering the Bill, would bear in mind that the power of coining money had been enjoyed by Native States from a remote period.

His Excellency THE PRESIDENT said:—"I have no doubt that the Select Committee will take into consideration the observations which their Highnesses the Mahārājā of Benares and the Mahārājā of Vizianagram have made upon this Bill. It is, however, well to state distinctly that the provisions of the Bill will in no way interfere with the discretion of Native Princes. The introduction of a uniform currency would be of considerable advantage to the people of the Native States of India, because, as has been observed by His Highness the Mahārājā of Vizianagram, the inconvenience of having coins differing from those of British India circulating in Native States which are gradually being brought into closer business relations with us, by the extension of railroads, is very great. The Bill has been carefully framed, so that there will be no interference whatever with the discretion of the Ruler of any Native State who may desire to take advantage of its provisions.

"The arrangement contemplated by the Bill is entirely of a voluntary character, and only such conditions have been imposed as appeared to the Government to be essential in order to secure a uniformity of the standard currency throughout India.

"I am happy to say that His Highness the Mahārājā of Indore, in personal communication with myself, has expressed his desire to take advantage of this Bill in order to secure a uniform currency between His Highness' territories and those of the British Government; and I trust that other Rulers of Native States may see the advantage of adopting a similar course.

"At the same time I wish it to be distinctly understood that the Government of India, in introducing this Bill, desires in no way to exercise pressure, either directly or indirectly, upon Native States, and that it is entirely left to them to say whether they will, or will not, take advantage of the Bill."

The Motion was put and agreed to.

The Hon'ble SIR W. MUIR then moved that the Bill be published in English in the *Gazette of India* and in the respective Gazettes of the Local Governments in English and such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

#### PRESIDENCY MAGISTRATES' BILL.

The Hon'ble MR. HOPE presented the further Report of the Select Committee on the Bill to extend certain parts of the Code of Criminal Procedure to

the Courts of the Police Magistrates in the Presidency towns. He said that although he did not propose to move the Council to take this Report into consideration on the present occasion, yet he thought it might be convenient, considering that the measure had already been some four years under consideration, if he were to state, in as few words as possible, its origin and present scope. Act XXV. of 1861 did not apply to the High Courts in their action in the Presidency towns or to Police Magistrates in such towns. When the amendment of that Act, which became law as Act X of 1872, was under consideration, although the principle was fully admitted that the system of procedure for the Mofussil ought, *mutatis mutandis*, to be extended to the Presidency towns, yet it was not thought desirable to incorporate such an extension with the revised Code itself, because that course might have given rise to considerable discussion and have postponed for an indefinite time the improvements in that Code which at the time were urgently required for the Mofussil. At the same time, however, in April 1872, Mr. Stephen obtained permission to introduce a separate Bill to carry out the object in view; and in doing so said of the procedure at that time obtaining, and up to the present time obtaining, in the Presidency towns as regards the Police Courts, that "it was quite impossible to say where it began or what it was," and that it caused "great waste of public time and money about matters of absolutely no importance at all."

In accordance with the permission then granted, the Hon'ble Mr. Hobhouse in July 1873 introduced a Bill which was referred to a Select Committee. In April 1874, he presented the Report of the Select Committee, the principal recommendation of which was that the Bill then before the Council should be divided into two. One portion relating to the High Courts alone was accordingly retained as the main Bill, which became law as Act X of 1875: the other portion was taken out and introduced as a distinct Bill, having reference to Police Magistrates alone; and that was the matter now under consideration.

The principle of the Bill was that it applied to the Presidency towns a variety of sections of the Code of Criminal Procedure. It, further, allowed the Magistrates of Police to try all cases summarily, and it made no distinction between the powers of Native and European Magistrates over Europeans, because it was considered, as regards both these matters; that the check of the Press and the Bar would prevent irregularities such as might arise in the Mofussil. At the same time the Bill gave no control to the Magistrates over the Police, because it was a large and important body and required a separate head, the Commissioner of Police. The Committee reserved for future consideration a suggestion made by the High Court at Calcutta that the powers

of Police Magistrates should be extended in order to save the jurors and the Court from the necessity of trying a variety of trivial cases.

In March 1875, the Committee submitted a Report on this Bill, and, as the result of their communications with the High Court and the Local Governments, they proposed to give to Police Magistrates the powers of Magistrates of the first class in the Mofussil, subject to an appeal to the High Court from the sentences of such Magistrates which exceeded one year's imprisonment or Rs. 500 fine. As to the form of the Bill, it then consisted of a few sections and a large schedule, in which the various sections of the Code of Criminal Procedure to be applied were quoted by their numbers.

Since the presentation of that Report, the Committee had further considered the matter, and in deference to representations received from various quarters regarding the great inconvenience of a Bill which merely quoted in a schedule the sections of the Code of Criminal Procedure which were applicable to the Courts of Police Magistrates, they had come to the conclusion that it would be more convenient to the Magistrates themselves, to the Bar, and to the public, if they were to re-enact the whole of those sections *in extenso*. This course produced one great advantage, that it brought to light a variety of small anomalies, omissions and superfluities which the schedule contained. At this stage the Committee had to acknowledge the great assistance they had received from some elaborate Minutes by Major Weldon, the Senior Magistrate of Police at Madras, and also from the attendance in Committee and valuable suggestions of Mr. Dickens, one of the Police Magistrates of Calcutta.

The Bill differed from the previous one only in a few points. It was proposed to alter the designation of "Police Magistrates" to that of "Presidency Magistrates." Theoretically, if there was one thing that Magistrates ought not to be, it was policemen, and practically they had no control over the police; further, the cases tried by them were not merely what were called, in common parlance, police cases, but cases of all degrees of magnitude, including those referred to the High Courts.

Further, the Committee proposed to abolish the Court of Petty Sessions at Bombay, which had fallen almost entirely into disuse. The powers conferred on it by Bombay Act IV of 1866 had never been availed of; and in 1874 the only work done by it was the hearing of twelve opium cases and thirteen municipal appeals. Under these circumstances, and as no such Court existed at Calcutta or Madras, the Committee had provided for its abolition, reserving the hearing of municipal appeals to the Senior Magistrate, who was "Revenue Judge" for all land matters at the Bombay Presidency.

Another change was a very material improvement in the mode of record, with the view of affording facilities to the High Courts in dealing with all cases which came up before them on appeal or by way of *certiorari*. And the Committee thought that, with these additional provisions and with the check always supplied by the Press, the Bar, and the public, there was no danger of the enlarged powers proposed to be entrusted to Presidency Magistrates being in any way misapplied.

The chapter on local nuisances the Committee proposed to omit, because it was found that the whole of these matters were already provided for by the local Municipal Acts, and the introduction of that chapter might only give rise to questions of conflicting jurisdiction.

The Committee trusted the Bill would be found to be a complete document and useful to all concerned, and that it would remove what the late Lieutenant-Governor, Sir George Campbell, had called "that floating undefined English law which rendered the procedure of the Presidency Police Courts altogether uncertain, altogether obscure, and altogether beyond the powers of the public to comprehend."

MR. HOPE had said that he did not propose to make any motion for the consideration of the further Report on this Bill. He would therefore only move that the Bill be republished. It was proposed to wait a short period, about a month, to receive any suggestions that might occur to those acquainted with the subject, and then to take the Bill into consideration with a view to its being passed at an early date.

The Motion was put and agreed to.

CHUTIA NAGPUR INCUMBERED ESTATES BILL.

HIS HONOUR THE LIEUTENANT-GOVERNOR presented the Report of the Select Committee on the Bill to relieve from incumbrances certain estates in Chutia Nágpur.

The following Select Committee was named :—

On the Bill to enable the Government of India to declare certain coins of Native States to be a legal tender in British India—The Hon'ble Messrs. Hobhouse and Bayley, His Highness the Maharájá of Vizianagram, the Hon'ble Mr. Bullen Smith, His Highness the Maharájá of Benares and the Mover.

The Council then adjourned to Tuesday, the 22nd February 1876.

CALCUTTA,  
The 15th February 1876. }

WHITLEY STOKES,  
Secretary to the Govt. of India,  
Legislative Department.