

Friday, February 4, 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 4th February 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 Honour the Lieutenant Governor of Bengal.

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 D. Cowie.

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

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

FEMALE INFANTICIDE BILL.

The Hon'ble MR. STRACHEY introduced the Bill for the prevention of female infanticide, and moved that it be referred to a Select Committee with instructions to report in a month. He observed that, when he obtained leave to introduce the Bill, he had said enough to show the Council the terrible prevalence of the crime of female infanticide in Northern India, and to show the necessity for legislation to enable the Government to carry out its determination that this crime should no longer be borne with, and that it would spare no efforts to eradicate this abominable custom, which had been too long suffered to be a reproach to our administration. Although he would not repeat the facts he had then stated, there were one or two points which he had omitted to notice, and to which he would now briefly refer. One omission which he had made was this—that he had made no reference whatever, as he certainly ought to have done, to the noble efforts taken through a long series of years in the Bombay Presidency to suppress the practice of female infanticide in Katfawár and Katch. Although he was referring specially to the prevalence of this

crime in Northern India, he felt that he ought not to have passed over in silence the fact that more had probably been done in the Bombay Presidency for the suppression of this crime than in any other part of India. An excellent account of the measures taken by the Bombay Government for the suppression of female infanticide had been published by the learned and accomplished Missionary of the Free Church of Scotland, Dr. Wilson. MR. STRACHEY might mention his work as containing a mine of information on everything connected with the subject. There was another point to which it had been his full intention to refer, but which he had forgotten. He had been reminded of the omission by more than one person. In consequence of the decrease in the number of female children, brought about by the prevalence of the crime of female infanticide amongst the Rájputs of Northern India, it frequently happened that it was extremely difficult for the Rájputs to find wives of their own caste for their sons. The want thus felt was not uncommonly provided in a very abominable way. There was a system under which persons who made a regular trade of the business kidnapped or purchased girls with the object of selling them as wives to these Rájputs. Children of lower castes were stolen or purchased and passed off as Rájput girls to men who wanted wives, and who were content to accept them with little or no enquiry. As long as it was not publicly known that the statement was certainly false, no objection was made. Besides this custom of kidnapping, which there was reason to fear to be extremely prevalent, there was no doubt that, in very many cases, girls of lower caste were sold voluntarily by their parents, in the belief, which no doubt was usually well-founded, that these girls would be kindly brought up and would ultimately be well married. An interesting account of this practice would be found in the Oudh Police Report for 1866, and he might refer in particular to the report of Captain Sharpe, an excellent Police officer in that Province, who had made careful enquiries into the subject. The Oudh authorities were satisfied that the practice MR. STRACHEY had been describing was extremely common. Girls from three to fourteen years of age were purchased from their parents by people, usually themselves Rájputs, who then gave out that the girls belonged to their own families. They looked out for some family where a wife was wanted, and the purchasers then got paid for the girls by Rájputs who wanted wives. Captain Sharpe referred in his report to one old woman, whose case was under investigation, who had followed this trade all her life, and said that she could not count the number of girls she had thus disposed of. This practice of kidnapping and selling children was one extremely difficult to deal with, but at the same time there was no reason to suppose that any special legislation was necessary for its suppression, and consequently there had been no reference to it in the Bill.

When Mr. STRACHEY asked for leave to introduce the Bill, he said that, in regard to the remedies to be applied for the suppression of this great evil, there was fortunately no reason for doubt, because we had ample experience to show how the crime ought to be dealt with. The measures taken had been of two kinds—those which aimed at the removal of the cause which mainly led to the commission of the crime—that was to say, the prevention of extravagant expenditure on marriages; and, secondly, measures of a coercive and directly preventive character. The present Bill proposed to give to the Local Governments power to carry out measures of both classes.

The Bill would enable the Government to lay down rules for regulating and limiting marriage-expenses amongst the classes who were found addicted to the practice of female infanticide. Although it might seem difficult to make rules on such a subject as this, still, as a matter of fact, it had been found that a great deal might be done in this direction; and this was rendered more easy by the fact that the people themselves were well aware of the folly of spending all this money on marriages, and when a little pressure was put on them by the officers of the Government, they were very glad to find an excuse for limiting their expenditure. The Bill further enabled the Government to order a complete system of registration of births and deaths in suspected places to be carried out, and a constant system of periodical inspection and enumeration of children. It had been found by experience that this had the effect of saving the lives of a great number of children; for, if a child was not killed immediately after its birth, and its life was saved even for a few hours, there was commonly little danger of its being killed afterwards. The Local Governments would have power to institute and maintain a system of registration of births and deaths in suspected places and amongst the persons to whom the proposed Act should have been made applicable; and to order the entertainment of special Police officers, or other officers and servants, for the purpose of making this registration or for carrying out any other of the provisions of the Act. The Bill further enabled the Government to levy from the parties concerned the whole expense incurred in carrying it into effect. The Bill, as Mr. STRACHEY had already informed the Council, had been circulated to all the Local Governments and Administrations of Northern India, and it had received the approval of the whole of them.

He had hoped that the Council would have had, in the discussion of this Bill, the assistance of our colleague, His Highness the Mahārājā of Jaypūr. Unfortunately he had been compelled by illness to leave Calcutta; but although His Highness had been unable to take a part in the discussion of this measure in the Council, he had left behind him in writing a statement of

his complete approval of the Bill, and of his determination to spare no efforts within his own territory to co-operate with the determination of the British Government to eradicate the practice of female infanticide. MR. STRACHEY was sure that he would do so, and it would be difficult to exaggerate the value of the assistance which the Mahárájá, one of the great Rájput Chiefs of India, would thus be able to afford in the suppression of this abominable crime among the people of his own class. With His Excellency the President's permission, MR. STRACHEY would read to the Council the remarks which the Mahárájá had made upon the Bill. He said—

“Speaking for myself, I fully concur with the spirit of the Bill introduced by my hon'ble colleague, Mr. John Strachey, for the prevention of female infanticide in the North-Western Provinces, the Panjáb and Oudh, and the measure has my hearty support. It shocks my feelings to think of the horrible crime which the Bill contemplates to suppress, and I pity those deluded individuals who, under a misapprehension of a sense of honour, are led, against their natural feelings, to sacrifice their own offspring to the altar of a revolting custom, which has no other authority than that of antiquity to support it. The Hindú *Cástras* are replete with ordinances as to the duties of a father to his daughter, and invoke the tenderest of all feelings for one's own offspring without distinction of sex. The shocking custom, therefore, which necessitates the men of my caste to murder their own infants—a custom which steels their hearts against the feelings of nature, and induces them to commit a crime which is even repugnant to instinct, has nothing to do with the religion of the people; and I for one would carry out the measure in such a vigorous way that the hateful practice may soon die out under the pressure of the law. The regulation of marriage-expenses, I believe, was introduced into my own territories by one of my ancestors, the Mahárájá Sivái Jay Singh, one hundred years ago, and I am still enforcing the same law in a modified form, which has had the effect, perhaps, of making it more rigorous; and I dare say that the introduction of a similar measure within the British territories will be calculated to do infinite good to the British subjects. It is, therefore, with feelings of no little pleasure that I hail the introduction of the present measure in the Governor General's Council; and I have not the slightest doubt in my mind that the right-thinking and intelligent portion of my caste-men will never fail to appreciate the benefit of the law now contemplated, and will agree with me in looking upon the proposed enactment as a real blessing to them.

I am exceedingly glad to find that my hon'ble colleague has traced out the real causes which lead to the commission of infanticide in India, and I would beseech my own caste-people to co-operate with the Government of India in the suppression of the crime, and in dispelling the false and mistaken sense of honour which at present prevents a high-born Rájput from marrying his daughter to one inferior in rank in his own clan. If some of the Rájput chiefs of the day will take the initiative at the present moment, I dare say that the mistake operating so banefully in its results upon the Rájput community will soon disappear.

The call of humanity loudly demands the enactment of the present Bill, and in the interests of humanity I would heartily support it in all its stages through the Council.

Major-General the Hon'ble SIR HENRY DURAND said that he was not at all surprised at hearing the contents of the paper read out by the Hon'ble Mr. Strachey and written by His Highness the Mahárájá of Jaypúr. SIR HENRY DURAND thought that it would have been a matter of very great surprise and regret if one who, he might say, had a hereditary right to take a leading part, had not stepped forward in the manner he had done to support the measure which the Government had brought before the Council. It must be a matter of great satisfaction to His Excellency to have the support of one of the leading Rájputs of India, a man whose family carried back its rise to about the third century of the Christian era, a family which had been ruling where it now ruled for 900 years, and who amongst its line could produce men who certainly, if any men in Indian history deserved to be remembered, were worthy of renown. It would perhaps be out of place for him to notice many of the great men who were ancestors of this very Mahárájá; but he hoped he would be allowed to note two instances: one was Mán Singh, the Commander of the Forces of the Empire, a man who conquered for the Emperor the whole of Orissa and Assam, who was, it might be said, the first Lieutenant Governor of the Emperor, for Bengal, Behar, and Orissa, who also ruled the Deccan, and who took up the armies of the Emperor to Cabul, and governed Afghánistán, maintaining order and tranquillity among the turbulent Afghán tribes. Such was one of the ancestors of the Mahárájá of Jaypúr, whom SIR HENRY DURAND brought forward as a man of note. And perhaps, if SIR HENRY DURAND were to consult his own professional feelings, there would be a tendency to give great weight to the abilities and fame of a man who at that time could maintain such sway in and out of India. But great as were the merits of this man, he could not say that he was inclined to regard him as the greatest of the ancestors of the Mahárájá of Jaypúr. There was another ancestor of his, the renowned Síváí Jay Singh, to whom the Mahárájá adverted as having first set the example of devising measures for the suppression of the crime of female infanticide, and who was known as a great Mathematician, a great Astronomer, and a great Engineer and Architect, but above all, as a most humane and intelligent ruler—one who, for these great qualities, was felt to be more than an ordinary man, and who obtained the name of *Síváí*, which meant in our idiom that he was a man and a half. Under such circumstances, with such an ancestor, SIR HENRY DURAND was not at all surprised to see the Mahárájá coming forward to support these measures. It showed that the old chivalrous spirit of his Rájput ancestors had not died with them, but still lived, when the Mahárájá of Jaypúr came forward in the way he did to uphold what was right, and to promise that he, the head of the Chuchwaha Rájputs, would make applicable to his own territories similar measures. There he had full and entire power to do as he intimated he meant

to do ; and SIR HENRY DURAND was sure that the Government of India would value extremely the co-operation of one circumstanced as the Mahárájá of Jaypúr was circumstanced. He would add that, some time ago, he observed in the newspapers the reports of a Social Science Congress at Jaypúr, which was established by the Mahárájá. He (SIR HENRY DURAND) thought that perhaps there could hardly be a subject on which that congress could be employed with greater advantage than in connection with the suppression of female infanticide.

He was quite sure that the Mahárájá's example would have great effect amongst all the Native Chiefs of India ; amongst the Rájput chiefs, not only of Rájputána, but of Central India, where the crime was more or less prevalent : there, it had been to a certain extent kept down ; but still it prevailed, and there was little doubt that the example of the Mahárájá would tend to check the practice.

He need hardly say that he heard with great satisfaction the Hon'ble Mr. Strachey adverting to the labours of the Bombay Government in the suppression of female infanticide. SIR HENRY DURAND could almost wish that, when his Hon'ble friend quoted the work of Dr. Wilson, he had also quoted a part of the dedication of that work to a man who was one of the ablest, most honest, hard working, intelligent members of the Civil Service ; he meant John Pollard Willoughby, who devoted himself to all that was right and good and for the benefit and promotion of the welfare of the Natives of India. With the permission of the Council, SIR HENRY DURAND would read, as the work lay before Mr. Strachey, an extract from Dr. Wilson's preface. After quoting the names of Duncan and Walker, he concluded with Willoughby, and said of him—"Willoughby, who ultimately suggested or adjusted the practical measures of inquiry, registration, review, reward and punishment, which, through the Divine blessing, have effected its extinguishment as a custom."

He (SIR HENRY DURAND) thought that the labours for the suppression of this crime on that side of India had been fully as great, and fully as continuous, as any we had attempted in Northern India. He was far from thinking that, either on that side of India or in Central India and Rájputána, or in Northern India, there had been as yet any adequate success ; but he was certain that, with this law which His Excellency the Viceroy intended to pass, and which the Council would no doubt support, and with the support and example of the Mahárájá of Jaypúr and his noble-hearted ancestors, His Excellency might expect that this measure would be one of those which in future years would be looked back to as marking His Excellency's administration with one great commanding act of benevolence.

His Excellency the PRESIDENT said—"I have little to add to what has been so ably and eloquently said by my two hon'ble colleagues.

"The only regret that I have to express with regard to His Highness the Mahárájá of Jaypúr is this, that he is unfortunately not present today in order to declare his sentiments by his own mouth; but I am in a position to state that his absence from Calcutta has been occasioned by untimely illness.

"I hope, however, that this will be only temporary, and that, before long, we shall again have the advantage of his presence at this Council. I can only say with regard to what His Highness has done in this matter, that it is in conformity with the general course of conduct which he has invariably adopted, and more particularly since he has been a member of this Council. During the short time he has been among us, he has been able on more than one occasion to afford this Government valuable and practical assistance. The whole course of his conduct in reference to the treaty with regard to the Sámbar Salt, which was undertaken by this Government entirely in the interests of the people, in order to endeavour to provide at a cheaper rate one of the primo necessities of life, has been most praiseworthy. The assistance which he has given to us has been in all respects most cordial, and I believe that assistance has been given with a sincere desire, not only to assist the British Government to maintain their revenue, but also to confer lasting benefits upon the people.

"It must be gratifying to the Mahárájá to have been able to state, as he has done in his letter today, that one of his distinguished ancestors, who was mentioned with so much feeling by my hon'ble colleague, Sir Henry Durand, was perhaps one of the first of Native Princes who made any endeavours to restrain this frightful practice of the murder of children by their own parents; and it is no shame to the British Government that, many years afterwards, they endeavoured by legislation to follow the same course as that which the Mahárájá's ancestor attempted to carry out more than one hundred years ago. I can only say that the Mahárájá's whole conduct in this matter shows what valuable assistance Native Chiefs and Princes, and rulers of this country, can give, when they are so disposed, to this Government, in their efforts to improve the general, social and material condition of the people; and we may cordially, I think, echo the sentiments expressed in the Mahárájá's letter, when we say that we feel with him that, in the efforts we are making now to abolish this abominable crime, we are conferring real blessings upon the people themselves—blessings which, I believe, the very people who are now engaged in this practice, will before very long be the first to appreciate.

“ I believe, with regard to the Bill itself, that the mode in which it is proposed now to deal with this crime is the best and the most efficient that can be devised. It is a mode of dealing which is not calculated in any way to shock or to oppose the prejudices or feelings of the people themselves. It will be to a certain extent a gradual process, but I believe that its being gradual will not in any degree lessen its efficiency.

“ I cannot help saying that, if the undertaking which we are engaged in today is successful, it will rank on a par with the abolition of suttee, thuggee, and other practices, in the suppression of which the British Government in India have been always engaged, and which I believe has tended more than anything else to vindicate the justice and wisdom of our rule.”

The Motion was put and agreed to.

KULLU SUB-DIVISION (PANJAB) BILL.

The Hon'ble MR. STEPHEN moved that the Report of the Select Committee on the Bill for investing the Assistant Commissioner in charge of the Kullu Sub-division of the Kángrá District with certain appellate powers, be taken into consideration. The Committee had made no alterations and recommended that the Bill should be passed.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

HIGH COURTS (COSTS OF PETITIONS) BILL.

The Hon'ble MR. CHAPMAN moved that the Report of the Select Committee on the Bill to enable the High Courts at the Presidency Towns to deal with costs of petitions for certain monies transferred to Government, be taken into consideration. The Committee had made no alterations and recommended that the Bill should be passed.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

MILITARY CANTONMENTS BILL.

The Hon'ble Mr. COCKERELL asked leave to postpone the Motion which stood next on the List of Business, for leave to introduce a Bill to amend the law relating to Military Cantonments.

Leave was granted.

The following Select Committee was named:—

On the Bill for the prevention of female infanticide—The Hon'ble Messrs. Stephen, Chapman and Cockerell, His Highness the Mahárájá of Jaypúr and the Mover.

The Council adjourned to Friday, the 11th February 1870.

WHITLEY STOKES,
*Secy. to the Council of the Governor General
for making Laws and Regulations.*

CALCUTTA, }
The 4th February 1870. }