

Tuesday, August 29, 1871

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 Simla on Tuesday, the 29th August 1871.

P R E S E N T :

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

His Excellency the Commander-in-Chief, G. C. B., G. 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 B. H. Ellis.

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

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN asked leave to postpone his motion that the Report of the Select Committee on the Bill for the Registration of Criminal Tribes and Eunuchs be taken into consideration.

Leave was granted.

LOCAL PUBLIC WORKS LOAN BILL.

The Hon'ble MR. STRACHEY presented the Report of the Select Committee on the Bill to facilitate the construction of works of public utility from Local and Municipal Funds.

RAILWAY BILL.

The Hon'ble MR. COCKERELL presented the Report of the Select Committee on the Bill to amend the Railway Act.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL also introduced the Bill for declaring the local extent of certain Acts passed by the Imperial Legislative Council, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that, of the ninety-three Acts specified in the schedule, eighty-eight were divisible into the two classes which he described when asking for leave to introduce this Bill,—(1st) Acts which having been enacted previous to 1856—the last year in which any considerable addition was made to the British dominions in India—were never formally extended to the whole of the territories which now constitute 'British India'; and, (2nd), Acts which though intended for general application had no express self-contained definition of their local extent.

In the case of the first of these classes, the Bill was designed to operate as an extending, and in regard to the second, as a mere declaratory, Act. In neither case did it vary the operation of any Act within those territories which had a separate local legislature.

The Bill was not, therefore, as he pointed out on a former occasion, impugnable, on the ground that it would have the effect of narrowing the power now possessed by the several local Councils, of amending or repealing enactments of a date previous to the passing of the Indian Councils' Act of 1861.

The remaining five Acts contained in the schedule constituted the two great Procedure Codes—Civil and Criminal. When enacted, they were made extendible, but were not then extended, to the whole of British India. They have since by various executive orders been gradually extended to all parts of the empire, except the territories referred to in the second section of the Bill. They have consequently been included in the schedule for the purpose of consolidation.

It would be a question for the consideration of the Select Committee to which this Bill might be referred, whether its object might not be attained without the specification of the several Acts contained in the schedule. On the one hand, such detailed specification had its obvious disadvantages, whilst, on the other, by any mere general reference to the Acts to which the Bill related, we ran the risk of failing to get rid of that ambiguity in regard to the intended operation of particular Acts, which this Bill was expressly designed to remove.

The Hon'ble MR. STEPHEN said that the present Bill formed part of the general scheme of simplification of the law with which the Council had been of late so much occupied. No one without actual experience would believe how difficult a task at present it was to ascertain what the law in different parts of the country actually was. First, there was the distinction of Regulation and Non-Regulation Provinces, then there were Non-Regulation Districts in Regulation Provinces; then, again, there were Acts which were of limited application, and there were four distinct legislatures besides the Imperial Parliament, all of which were constantly adding to the existing body of law. It was, therefore, of the utmost importance that the area to which these various enactments were applicable, should be precisely ascertained. Nothing would be added to the bulk of the existing law; the only object was to let it be clearly known what laws were in force in each part of India. When his hon'ble friend, Mr. Cockerell, to whose labours in this difficult and intricate matter the Council and the public were much indebted, had succeeded in passing the present and one other analogous measure which was now under consideration in Committee, the whole subject would be reduced to absolute simplicity. The various districts which at different times were specially legislated for, or specially excepted, would all be clearly ascertained, and great assistance would, he (MR. STEPHEN) hoped, be given to the regular and speedy administration of the law.

The Motion was put and agreed to.

CIVIL COURTS (OUDH) BILL.

The Hon'ble MR. COCKERELL also moved that the Hon'ble Mr. Ellis be added to the Select Committee on the Bill to consolidate and amend the law relating to the Civil Courts in Oudh.

The Motion was put and agreed to.

The following Select Committee was named :

On the Bill for declaring the local extent of certain Acts passed by the Imperial Legislative Council—The Hon'ble Messrs. Stephen and Egerton and the Mover.

The Council adjourned to Tuesday, the 5th September 1871.

H. S. CUNNINGHAM,

S I M L A ;
The 29th August 1871. }

*Offg. Secy. to the Council of the Governor
General for making Laws and Regulations.*