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ACT NO. XXVII OF 1871

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor General on the
12th October 1871.)

An Act for the Registration of Criminal Tribes and Eunuchs.

Whereas it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; it is hereby enacted as follows:—

1. This Act may be called "The Criminal Tribes' Act 1871, and it shall come into force on the passing thereof.

This section and section twenty extend to the whole of British India: The rest of this Act extends only to the territories under the governments of the Lieutenant-Governors of the North-Western Provinces and the Punjab, respectively, and under the administration of the Chief Commissioner of Oudh.

PART I

CRIMINAL TRIBES

2. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe

3. The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe.

The manner in which it is proposed that such tribe, gang or class shall earn its living when the provisions hereinafter contained have been applied to it.

4. If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is, in the opinion of the Local Government, the real occupation of such tribe, gang or class, or a pretence of the purpose of facilitating the commission of crimes, and shall set forth the grounds on which such opinion is based : and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

5. If, upon the consideration [of any such report, the Governor General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the Local Gazette a Notification declaring that such tribe, gang or class is a criminal tribe and thereupon the provisions of this Act shall become applicable to such tribe, gang or class.

6. No Court of Justice shall question the validity of any such notification on the ground that the provisions herein before contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein.

7. When the notification mentioned in section five has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof.

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district, shall be conclusive proof of such residence.

8. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or

of such portion thereof as is directed to be registered, before such persons as he appoints, and to give those persons such information as may be necessary to enable them to make the register.

9. Any member of any such tribe, gang or class who, without lawful excuse, the burden of proving which shall lie upon him,

shall fail to appear according to such notice, or who shall intentionally omit to furnish such information.

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false.

shall be deemed guilty of an offence under the first parts of section one hundred and seventy-four, or one hundred and seventy-six, or one hundred and seventy-seven of the Indian Penal Code, respectively, as the case may be.

10. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure.

11. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby.

12. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit.

Every order for the erasure of any such person's Name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order of entry, retention or erasure, passed by the said Magistrate on

any such complaint, either on appeal by the person registered or proposed to be registered, or otherwise.

13. Any tribe, gang or class, which has been declared to criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed, by the Local Government.

14. Any tribe, gang or class which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence.

15. No tribe, gang or class, shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor General in Council, consider suitable, have been made for enabling such tribe gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.

16. When the removal of any persons has been ordered under this Act, the register of such person's names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated, shall thereupon be empowered to exercise respectively the powers provided in sections eleven and twelve.

17. The Local Government may, with the sanction of the Governor General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement.

18. The Local Government may, with the provision consent of the Governor General in Council, make rules to prescribe:—

(i) The form in which the register shall be made by the said Magistrate;

(ii) The mode in which the said Magistrate shall publish the notice prescribed in section eight, and the means by which the persons whom it concerns and the Headman, Village-Watchman and landowners or occupiers of the village, in which such persons reside, shall be informed of its publication;

(iii) The mode in which the notice prescribed in section eleven shall be given;

(iv) the limits within which persons whose names are on the register shall reside;

(v) conditions as to holding passes, under which such persons may be permitted to leave the said limits;

(vi) conditions to be inserted in any such pass as to

(a) the places where the holder of the pass may go or reside;

(b) the officers before whom, from time to time, he shall be bound to present himself;

(c) and the time during which he may absent himself;

(vii) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits;

(viii) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave;

(ix) The terms upon which registered persons may be discharged from the operation of this Act;

(x) the mode in which criminal tribes shall be settled and removed;

(xi) the control and supervision of reformatory settlements;

(xii) the works on which, and hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit;

(xiii) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove;

(xiv) and generally to carry out the purposes of this Act.

19. Any person violating any of the rules made under section eighteen shall be punished with rigorous imprisonment for a term which may extend to six months or with fine, or with whipping, or with all or any two of those punishments; and, on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, or with fine, or with whipping to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.

20. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

May be arrested without war and by any police-officer or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this section: Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal such persons.

21. It shall be the duty of every Village-Headman and Village-Watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, to give the earliest information in his power at the nearest police station of,

(1) the failure of any such person to appear and give information, as directed in section eight,

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every Village-Headman and Village-Watchman in a village, and of every owner or occupier of land, to give the earliest information in his power at the nearest police station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang

22. Any Village-Headman, Village-Watchman, owner or occupier of land, who shall fail to comply with the requirements of section twenty-one shall be deemed to section one hundred and seventy-six of the Indian Penal Code.

23. All Magistrates and other persons are hereby indemnified for anything heretofore done under the circular order 18 of 1856 of the Judicial commissioner of the Panjab, or the North-Western Provinces or Oudh, relating to the registration or detention of tribes regarded by such Local Governments as criminal tribes; and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.

PART II

EUNUCHS

24. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf:—

(a) a register of the names and residence of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under section three hundred and seventy-seven of the Indian Penal Code, or of abetting the commission of any of the said offences; and

(b) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.