

Saturday, 5th May, 1860

# PROCEEDINGS

OF THE

# LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

which the Government had in contemplation to impose were comprised in his Financial statement.

#### LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

MR. FORBES moved that Sir Bartle Frere be requested to take the Bill "for the registration of Literary, Scientific, and Charitable Societies" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

#### CHITTAGONG DISTRICT.

MR. SCONCE moved that Sir Bartle Frere be requested to take the Bill "to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

#### INDEMNITY.

MR. HARINTON moved that the Bill "to indemnify officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances" be referred to a Select Committee, consisting of the Vice-President, Mr. Sconce, and the Mover.

Agreed to.

The Council adjourned.

Saturday, May 5th, 1860.

#### PRESENT :

The Honorable the Chief Justice, *Vice-President*,  
in the Chair.

Honorable Sir H. B.	H. B. Harinton, Esq.,
E. Frere,	H. Forbes, Esq.,
Right Honorable J.	and
Wilson,	A. Sconce, Esq.
P. W. LeGeyt, Esq.,	

#### MESSAGES FROM THE GOVERNOR GENERAL.

THE VICE-PRESIDENT read Messages, informing the Legislative  
*Mr. Wilson*

Council that the Governor General had assented to the Bill "relating to the emigration of Native Laborers to the British Colony of St. Vincent," the Bill "to repeal certain laws relating to the jurisdiction of the Zillah Court of Furruckabad," the Bill "to provide for the execution of process within the premises occupied by His Majesty the King of Oude," the Bill "to amend and extend Act XXII of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals)," the Bill "to amend Act XIV of 1856," the Bill "to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbor such offenders), and to make certain provisions in lieu thereof," and the Bill "to continue in force for a further period of three months Act XXI of 1859, for providing for the exercise of certain powers by the Governor-General during his absence from his Council."

#### INCOME TAX.

THE CLERK presented a petition from landholders of Dacca, against the Bill for imposing Duties on profits arising from Property, Professions, Trades, and Offices.

#### MARRIAGES (CHURCH OF SCOTLAND).

MR. SCONCE presented the Report of the Select Committee on the Bill "relating to the solemnization of marriages in India by ordained Ministers of the Church of Scotland."

#### INCOME TAX. X

MR. WILSON, in postponing the presentation of the Report of the Select Committee on the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices," said that the Select Committee had found it necessary to make much larger and more extensive alterations in the frame-work of the Bill than was expected, in order to give effect to the altered machinery of the Bill, which he had explained on the second reading, and the general effect of which would be

to bring the working of the Bill under the regular revenue authorities, and in harmony with the collection of other branches of revenue. To do this the more effectually, the Committee were of opinion that it would require considerably longer time than had been allowed for the consideration of the Bill, especially as it was above all things desirable to reduce the provisions of the Bill to the greatest possible simplicity, and he should therefore propose to fix this day three weeks for the presentation of the Select Committee's Report. For although the Government were desirous that no time should unnecessarily be lost in giving effect to measures the necessity for which was so urgent, yet they were much more anxious that it should be passed in the most perfect form attainable.

In reference to the Petition which had just been read at the table, and which at the proper time he would move should be printed, he might take this opportunity of saying that he had received a letter from the Rajah of Burdwan, stating his entire concurrence in the principle of the Bill. The Rajah, although he was the largest proprietor under the permanent Settlement, had expressed his entire willingness to contribute his share to the public necessities in the present emergency, and was desirous that it should be made known that though other holders under the permanent Settlement had claimed exemption, his (the Rajah's) opinion was that the tax was an equitable one between him and his fellow subjects.

Mr. WILSON subsequently moved that the Clerk of the Council be requested to read the letter.

The Motion was carried, and the letter was read accordingly as follows:—

*Rajbaree, Burdwan, 3rd May 1860.*

TO THE RIGHT HONORABLE JAMES WILSON  
Member of the Supreme Council in India.

SIR,—I trust that you will pardon the liberty I am taking in addressing you on the subject of the system of taxation which you are now proposing, and in which I am deeply interested as the proprietor of the most extensive Zemindarees in Bengal.

The social ties by which I am surrounded, and the vast property in which I, and those dearest to me, are interested, make me keenly sensible of the obligations which India owes to the Government for crushing the late mutinies.

This sense of my obligations teaches me that it becomes an act of duty in me, as a subject of my Gracious Sovereign, not only to cheerfully acquiesce, but also to tender my humble support in aiding your new system, to relieve our unavoidable financial difficulties.

Permit me Sir, most respectfully to assure you that the immediate cause for this expression of my opinion is the attempt which has been made to oppose your admirable system of taxation—this opposition being founded upon the false assumption that it is a breach of the perpetual settlement.

No doubt that, at the time the settlement was made, it was considered as sufficient for the exigencies of those days, but I cannot find anything in the terms of the settlement to convince me that the Zemindars of India have for ever been exempted from contributing to assist the Government when they incur unavoidable expenses in preserving property, life, the honor, and all that is dear to them of those very Zemindars.

SIR,—I, as the greatest Zemindar of Bengal, disclaim all such exemptions—I am willing to submit most cheerfully to your wise system of taxation which places this unavoidable impost equally on all classes. If you think that this declaration of mine, which is the result of mature consideration, will be any guide to my countrymen; if you think that the example thus set by the greatest proprietor of Zemindarees in Bengal, can induce his countrymen to believe that it is true policy to surrender a portion for the security of the whole—I place in your hands my adherence to that admirable system by which in my belief your memory will be endeared to India.

I have, &c.,

(Signed) MAHTAB CHAND BAHADOOR,  
*Maha Rajah of Burdwan.*

#### LICENSING OF ARTS, TRADES, AND PROFESSIONS.

Mr. WILSON also postponed the presentation of the Report of the Select Committee on the Bill "for the licensing of Arts, Trades, and Professions" for the same reasons as he had already explained with regard to the foregoing Bill.

#### PORT-DUES (BASSEIN).

Mr. HARRINGTON presented the Report of the Select Committee on the Bill "for the levy of Port-dues in the Port of Bassein."

## ABKAREE REVENUE (BENGAL).

The Order of the Day being read for the third reading of the Bill "to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkarce Revenue in the Presidency of Fort William in Bengal)"—

MR. SCONCE said, before moving the third reading of this Bill, he was under the necessity of asking the Council to go again into Committee on the Bill with the view of reconsidering the amendment which was made last Saturday. The necessity for a change in the Bill, since it was reported on by the Select Committee, arose out of a representation from the Government of Bengal. As it was a short matter, he hoped the Council would allow him to offer a few remarks in explanation of it. By the present law, all spirits exported from Bengal to a Foreign Port, that is to any Port beyond the Continent of India, might be exported under drawback of the Excise Duty, or, as an alternative, it was provided by the existing law that spirits intended for Foreign exportation might be removed under bond from the place of distillation. These were the two forms according to which spirits intended for exportation might be exported. But this was the rule with respect to spirits intended for exportation to a Foreign Port only. There was a special provision as regarded spirits intended for exportation to an Indian Port. The object of this provision was to prohibit drawback in respect to spirits exported, it being a matter of little consequence whether the Duties leviable on spirits consumed in the Bengal Presidency, or in the Bombay Presidency, should be levied in one Presidency or the other. But a question lately arose in Bombay with regard to the manner in which the Excise Duty on Salt manufactured in that Presidency and exported to another should be credited in the accounts. It was decided upon that occasion that the Salt Duty was one on consumption, that the Excise was not leviable at the place of manufacture, and that the whole Duty on Salt thus exported should be credited to the Presidency in which the Salt

was consumed. That being the case, the Bombay Government asked for the application of the same rule to spirits. It was a simple matter of account, and as such, in fact, did not seem to require any legislative action. But the Bengal Government, in conceding to the proposition of the Bombay Government, had suggested the removal of the restriction as regarded the payment of drawback on the exportation of spirits to Indian Ports. Of course spirits so exported would be subject to the ordinary Customs Duty at the Port where they would be consumed. At the suggestion of the Right Honorable Gentleman, a verbal alteration was introduced in the new Clause which was proposed by him last Saturday. The words of the new Section, as they now stood, were—

"Spirits may be exported from any licensed distillery for exportation without payment of duty, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue on the person removing them executing a bond with one or more sureties to the Government in the form hereunto annexed for the payment of the prescribed duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or for such portion as may be exported to any other Port within British India."

Therefore, as these words now stood, they might be taken to require the payment of Duty on the exportation of the spirits to an Indian Port, and would consequently not meet the purposes of the proposal of the Government. The bond would be taken upon such portion as might not be exported to any Port whatever within four months, or as might be exported to any Indian Port. Now if the Duty were required to be paid before the exportation of the spirits to a Port in India, the object of the Government would not be met. His (Mr. Seonce's) original proposal was to allow drawback in respect to spirits upon which Duty had already been paid, if exported by sea; and to allow the removal from the distillery of spirits intended for exportation without payment of Duty under a bond. In short, he proposed to assimilate the rule with respect to spirits intended for export-

ation to Indian Ports, to the rule relating to the exportation of spirits to Foreign Ports. One objection taken by the Revenue Board at Calcutta was that it might be a convenience to distillers or exporters not to be obliged to pay Duty in anticipation at the Port of distillation, that is, several months as it might be before the consumption of the spirits. He did not attach much importance to this objection, and he did not find that any objection had been raised by the distillers on that point. Another point was that already stated, namely that the Bengal Presidency should not be credited with the Excise Duty on spirits consumed in Bombay.

The motion was carried, and the Council resolved itself into a Committee upon the Bill.

Mr. SCONCE proposed the rescission of the amendment carried last Saturday, with a view to the omission of the following words in Section II:—

“or for such portion as may be exported to any other Port within British India.”

He repeated the grounds of his motion, and stated that the change made last week was not sufficiently expressive of the object which it was intended to meet. Under the Bill as now amended, payment of Duty was necessary, whereas the principle of his (Mr. Sconce's) amendment was quite different, namely, that if spirits were intended to be exported to any Port, a bond should be taken from the exporter, so as to secure the Government from any loss of revenue. He (Mr. Sconce) thought that the simplest way of disposing of the case was by entirely assimilating the exportation of spirits to Indian Ports to the exportation of spirits to Foreign Ports. If spirits were exported from Bengal to Bombay, they would, on arrival at Bombay, be liable to the ordinary Customs Duty.

Mr. WILSON said, his Honorable friend had stated that he wished to frame this Bill in accordance with the recommendation of the Revenue Authorities. He (Mr. Wilson) thought he would be able by a very few words to show that the Bill as now amended

fully carried out the object contemplated. He would call attention to the state of the law as it already stood. Spirits manufactured in India and exported to a Foreign Port were allowed a drawback of the Excise Duty already paid upon them. The policy of that was obvious. If we were to compete with foreign countries, it was obviously absurd to attempt to impose a Duty. The present law provided not only that they should be allowed drawback, but that spirits might be removed to the port of exportation under bond without payment of Duty. Now what the Bombay Government had contended for, and the Bengal Government recommended was this, not that the drawback should be allowed upon spirits upon which the Duty had already been paid, but that Rum might be permitted to be exported to Bombay under bond before payment of Duty. This was precisely what the Bill, as amended last week, effected. It repealed that part of the existing law which prohibited the exportation of spirits under bond to an Indian Port. It then provided that—

“Spirits may be removed from any licensed distillery for exportation without payment of Duty, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond with one or more sureties to the Government in the form hereunto annexed, for the payment of the prescribed Duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or for such portion as may be exported to any other Port within British India.”

That is, the bond was to be given upon the removal of spirits from a distillery for exportation, for the payment of Duty upon such portion, as might not be exported within four months, or for such portion as might be exported to any Port in India; and that was, in point of fact, all that the Government of Bengal required. We allowed the spirit to be exported upon the exporter giving a bond that the Duty would be paid, and upon the Collector being satisfied the bond would be discharged. He (Mr. Wilson) did not know what his Honorable friend required further. If we were

to allow drawbacks of Duty already paid, with regard to spirits removed from one Indian Port to another, we would only be confusing accounts, and the system of drawbacks, as it was, was attended with some risk. If it were stated that the object was to credit Bombay and not Bengal with the Duty, that might be done by a mere transfer in the books, as was done with respect to some Rum exported from Bengal and consumed in Bombay.

THE CHAIRMAN said, he concurred with the Right Honorable gentleman, that the Bill, as already amended sufficiently provided for the object contemplated by the Government of Bengal. The only difficulty which he (the Chairman) felt was this that he saw no Clause in the Bill which provided for the discharge of the bond on the Collector being satisfied of the payment of the Duty. Without some provision to that effect, the exporter might be liable to pay both the Excise and Customs Duties.

After some discussion as to the rates of Excise Duty ruling in the Bengal and Bombay Presidencies, Mr. Sconce's motion was withdrawn, and amendments were severally proposed by the Chairman and Mr. Wilson and carried, which made the Section run as follows :—

“Spirits may be removed from any licensed distillery for exportation without payment of Duty, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond with one or more sureties to the Government in the form hereunto annexed, for the payment of the prescribed Duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or upon such portion as may be exported to any other Port within British India not being a free Port, proof of the landing whereof, and the payment of the Duty whereon, shall not be furnished to the satisfaction of the Board of Revenue within six months from the date of such bond. Provided, however, that it shall be lawful for the Collector, with the sanction of the Commissioner, on sufficient cause shown, to extend the period allowed for the exportation of the spirits, or as the case may be, for the production of such proof as aforesaid for a further term of four months. Provided also that spirits exported as aforesaid shall, if imported to any Port in the territories subject to the

Government of India, be charged with the Duty payable on account of spirits imported by Sea, under any Act for the time being in force.”

The Council having resumed its sitting, the Bill was reported with amendments.

#### INCOME TAX.

MR. WILSON moved that the petition from the landholders of Dacca, this day presented to the Council, be printed.

Agreed to.

#### PENAL RECOGNIZANCES.

MR. SCONCE said, he wished to ascertain from the Honorable and learned Vice-President the practice with regard to Committees which had been discharged. What he wanted to know particularly was when the Select Committee on a Bill was discharged, whether it was competent to the Council to re-appoint a Committee. He put this question with reference to the Bill for the better prevention of offences against the public tranquillity, which had been referred to a Select Committee sometime ago. The Council would remember that last year a Bill had been introduced by the late Member for Bengal for regulating the establishment of markets. Now he (Mr. Sconce) was unwilling to proceed with that Bill, and it seemed to him that the object sought to be accomplished by the Market Bill would be better attained by the adoption of a general law for the preservation of the peace. The Committee, however, which had been appointed to consider the public tranquillity Bill, was lately discharged, and he (Mr. Sconce) now wished to know whether he could take up the Bill at the stage at which it was left by the late Committee, or whether it was necessary for him to introduce the measure afresh, as if it were an entirely new matter.

THE VICE-PRESIDENT said there was nothing in the Standing Orders to prevent a Bill, the Select

*Mr. Wilson*

Committee on which might have been discharged, being referred to a fresh Select Committee. The reason why the Select Committee on the Mochulkas or Penal Recognizances Bill was discharged was that it was understood that the substance of the provisions of that Bill had been introduced into the Criminal Procedure Bill, which had already been reported on by the Select Committee. If the Honorable Member, however, thought any good would result from the appointment of a new Committee, it was quite competent to him to propose the adoption of that course. He (the Vice-President) did not think that the mere fact of the Select Committee having been discharged, implied the abandonment of the Bill altogether.

MR. SCONCE then moved that the Bill "for the better prevention of offences against the public tranquillity, and to amend the law regarding the taking of bonds for keeping the peace," be again referred to a Select Committee consisting of Mr. Hariugton, Mr. Forbes, and the Mover.

Agreed to.

The Council adjourned.

Saturday, May 12, 1860.

PRESENT :

The Honorable the Chief Justice, *Vice-President*,  
in the Chair.

Hon'ble Sir H. B. E. H. B. Hariugton, Esq., Frere,	H. Forbes, Esq., and
Right Hon'ble James Wilson,	A Sconce, Esq.
P. W. LeGeyt, Esq.,	

PORT-DUES AND SIR JAMSETJEE  
JEJEEBHOY'S BARONETCY.

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor-General had assented to the Bill "to amend Act XXII of 1855 (for the regulation of Ports and Port-dues), and Act VII of 1858 (for the levy of Port-dues at Ports within the Presidency of Fort St. George);" and the Bill "for settling Promissory Notes of the Govern-

ment of India, producing an annual income of one lakh of Rupees, and a Mansion House and Hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet, lately conferred on him and the heirs male of his body by Her present Majesty Queen Victoria, and for other purposes connected therewith."

INCOME TAX. ✕

THE CLERK, in presenting a Petition signed by Mr. H. Nelson, the Sheriff of Madras, and Chairman of a Meeting of the inhabitants held in that city, against the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices," reported that the Petition did not conclude with a distinct prayer.

MR. WILSON said that he understood from the President and the Clerk at the table, that it was contrary to the Standing Rules of the Council to receive Petitions which did not conclude with a prayer, and that it was not customary for such Petitions to be printed. But for his own part, and as far as he was concerned, he would deeply regret if a document of this importance, proceeding from so highly respectable and influential a body of Her Majesty's subjects, should be rejected, merely upon a formal ground of that character. The Petition raised questions of the highest importance, and which might well engage the most earnest attention of the Council, and especially of the Committee to which the Income Tax Bill was now referred. He (Mr. Wilson) therefore hoped that Honorable Members would consent to overlook this informality, and would support him in the Motion that the Petition be printed and referred to the Select Committee on the Bill.

Agreed to.

STAMP DUTIES.

THE CLERK reported that he had received a communication from the Home