

Tuesday, 26th June, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

1st August 1858 to the 1st July 1860, and of the amount of Stamp Duty paid on the claims or petitions of plaint—and a statement of regular suits and appeals instituted in the Lower and North-Western Provinces of the Presidency of Bengal, to set aside decisions of the Revenue authorities in cases of the nature mentioned in the preceding statement from 1st August 1858 to 1st July 1859, and of the amount of Stamp Duty paid on the petitions of plaint or appeal—under the following heads:—

1. Suits for the delivery of pottahs or kubooyuts, or for the determination of the rates of rent at which such pottahs or kubooyuts are to be delivered.

2. Suits for damages on account of the illegal exaction of rent, or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress.

3. Complaints of excessive demand of rent, and all claims to abatement of rent.

4. Suits for arrears of rent due on account of land either kherajee or lakhiraj, or on account of any rights of pasturage, forest rights, fisheries, or the like.

5. Suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment or a lease may be liable to be cancelled.

6. Suits to recover the occupancy or possession of any land, farm, or tenure from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent of the same.

7. Suits arising out of the exercise of the power of distraint conferred on zemindars and others by Sections CXII and CXIV of Act X of 1859, or out of any acts done under color of the exercise of the said power.

8. Suits by zemindars and others against their agents, or the sureties of such agents, for money, papers, or accounts.

9. Applications for ejectment of cultivators, farmers, &c, by zemindars.

10. Application to dispossess grantees of land exempt from revenue.

11. Amount of Stamp Duty paid on the claims or petitions of plaint in the foregoing cases.

12. Appeals from decisions passed in the foregoing cases.

13. Amount of Stamp Duty paid on petitions of appeal.

In making the motion, he (Mr. Harington) said that the information returns which he now had for would supply, would show to some extent, not only how Act X of 1859 (Mr. Currie's Act) had worked generally, but also what had been its effect on the Stamp Revenues.

Agreed to.

MR. HARRINGTON then moved that Mr. Wilson be requested to take the above Message to the Governor-General in Council.

Agreed to.

The Council adjourned at half past 10 o'clock on the Motion of Sir Bartle Frere, till to-morrow morning, at 7 o'clock.

Tuesday Morning, June 26, 1860.

PRESENT :

The Hon'ble the Chief Justice, *Vice-President*,
in the Chair.

Hon'ble Sir H. B. E. Frere,	H. Forbes, Esq., A. Sconce, Esq., and Hon'ble Sir M. L. Wells.
Right Hon'ble J. Wilson,	
H. B. Harington, Esq.,	

INCOME TAX.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "for imposing Duties on profits arising from Property, Professions, Trades, and Offices," the Council resolved itself into a Committee for the further consideration of the Bill.

A verbal amendment was made in Section II on the motion of Mr. Harington.

Sections VII to XVI were passed as they stood.

Section XVII was passed after a trifling amendment.

Section XVIII was passed as it stood.

Sections XIX and XX were severally passed after a verbal amendment.

Sections XXI and XXII were passed as they stood.

Section XXIII was passed after amendment.

Sections XXIV and XXV were passed as they stood.

Section XXVI was passed after the substitution of the word "salaries" for the word "stipends" in the third line, and, on Mr. Harington's Motion, the Clerk of the Council was authorized to make a similar alteration throughout the Bill.

Sections XXVII and XXVIII were passed after verbal amendments.

Sections XXIX to XL were passed as they stood.

Section XLI was passed with the addition of the following words, on the motion of Sir Mordaunt Wells :—

"No person being required to deliver a list of lodgers, inmates, or other persons aforesaid, shall be liable to the penalties hereinafter mentioned, or either of them, for any omission of the name or residence of any person in his service or employ and not resident in his dwelling house, if it shall appear that such person is entitled to be exempted from the payment of all and every the duties hereby imposed.

Sections XLII to LIV were passed as they stood.

Section LV was passed after verbal amendments.

Sections LVI to LXXII were passed as they stood.

Section LXXIII was passed after a verbal amendment.

Sections LXXIV and LXXV were passed as they stood.

Section LXXVI was passed after a verbal amendment.

Sections LXXVII to LXXXVI were passed as they stood.

Sections LXXXVII and LXXXVIII were passed after trifling amendments.

Sections LXXXIX to XCII were passed as they stood.

Section XCIII was passed after a verbal amendment.

Sections XCIV and XCV were passed as they stood.

Section XCVI contained the Rules for assessing and charging the duties under Schedule 1.

Rules 1 to 3 were passed as they stood. Rules 4 and 5 were passed after amendments.

Rule 6 provided as follows.—

"In estimating such rents and profits, the gross amount received during the preceding year shall be fully stated; but if the person receiving the same be himself liable to pay, in respect of the said land, any rent to any superior landlord, he shall state in his return the amount of such rent, and the name of the person to whom it is payable, and he shall be charged with the said duties on his net rent and profits after deducting the amount of the rent so payable by him to such superior landlord."

After a verbal amendment, which was carried in line 1,

Mr. WILSON said that this Section had already been much considered, but might still very profitably be the subject for further discussion. In England the tax fell on the occupier who deducted the Income Tax in paying the landlord, who again deducted it in paying charges on his estate. There if any persons in the category had a claim for exemption, they made it to the Board of Revenue, which could consider the whole case of the claimant. It might be that, in respect of his share of the income from the estate, he might receive less than £100, and might not be liable to the Income Tax, but he might as to other sources of income, and so might properly be charged in respect of all. This was the simple plan. Here in India it was not proposed to levy the tax on the ryot, but the person receiving the rent should pay, and then he in paying any other landlord might deduct the amount of income tax due on that landlord's share. This relieved the Government of all difficulty in discovering the proportions chargeable to each person. It left those who were concerned to settle the matter among themselves, and if any one of them received less than the amount chargeable with Income Tax, he would apply for a refund of any amount that had been charged to him by his under-tenant.

MR. SCONCE said, that he feared this plan was not adapted to Bengal. A man might receive the rent in the first instance from the cultivators, but after that it would probably be distributed into many shares, between the first recipient and the zemindar, many of them having incomes below the limit of the Bill. Such cases in this country would be very numerous. The rent paid by the cultivators might exceed 200 Rupees a year, but the whole might be proved to be enjoyed in portions below 200 Rs., so that none of the receivers would be liable to the tax. To tax the first receiver in such cases would often be a great hardship, and would lead to great confusion and annoyance.

SIR MORDAUNT WELLS said, he thought the arrangement suggested by the Right Honorable gentleman the only safe one. The danger was that estates would be divided by benamie transactions for the purpose of evading the Act, and some one person should therefore be held liable in the first instance.

MR. HARRINGTON said, he agreed generally in the objection taken by the Honorable Member for Bengal to any alteration of the nature suggested. The remedy proposed by the Right Honorable gentleman, namely the right to claim refunds, would involve much hardship on claimants who might have to travel considerable distances to the Government Offices, and when they got there might often be subjected to great delay and expense. It would also throw a great deal of extra labor on the Collectors.

SIR BARTLE FRERE said that, as he understood, the plan proposed would enable the Government to deal with the registered receiver of the rents, and this would be the simplest course.

MR. SCONCE said, it would not be the registered zemindar who should pay under the proposal of the Right Honorable gentleman, but the tenant who was in the receipt of the rents from the cultivators. He believed that the course proposed would be

absolutely intolerable. At any rate, he thought it should not be adopted without further consideration.

THE CHAIRMAN said, he had no difficulty in his own mind, but would consent to an adjournment if it were wished by others. The question was, whether a man receiving rents and having charges on his income should pay the whole Income Tax and deduct from others to whom he had to pay over parts of their rents, their proportions of the tax, or should pay only for his net share and leave others to pay theirs. He would put two cases. *First*, suppose a man paying a jumma of Rupees 500, letting to A for Rupees 1,000, who let to B for Rupees 2,000, who let to C for Rupees 4,000. In that case, if C were to realise Rupees 4,000 rent, he could pay the Income Tax without difficulty, and then in paying B his Rupees 2,000, he could deduct the tax on that, and B could pay over his Rupees 1,000, deducting the tax on that. The other case was this. Suppose a jumma of Rupees 150, the estate let for Rupees 300 to B, and by him to C for Rupees 450. Here none of the receivers would have a clear profit from that source of Rupees 200, but still it would be right that the tax should be charged on the Rupees 450, and be deducted as each receiver paid over to the next man, for each of them could claim a refund, and when he did so, he would be liable to examination as to his other sources of income, which probably might make up his income to Rupees 200. But he doubted if there were many cases such as he had last supposed.

It was eventually agreed to postpone the consideration of this and the two following rules.

Rules 9 to 23 were passed as they stood.

The further consideration of the Bill was then postponed, and the Council resumed its sitting.

The Council adjourned at 10 o'clock on the Motion of Sir Bartle Frere, till to-morrow morning, at 7 o'clock.