

Thursday, 28th June, 1860

# PROCEEDINGS

OF THE

# LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

Sections C to CXI were passed as they stood.

Section CXII was passed after an amendment.

Section CXIII was passed as it stood.

Section CXIV was passed after a verbal amendment.

Section CXV was passed as it stood.

Section CXVI was passed after a verbal amendment.

Sections CXVII to CXXV were passed as they stood.

Section CXXVI was passed after a verbal amendment.

Sections CXXVII and CXXVIII were passed as they stood.

Section CXXIX was passed after an amendment.

Sections CXXX to CXXXV were passed as they stood.

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

Thursday Morning, June 28, 1860.

PRESENT :

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

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

AMRS AND AMMUNITION.

THE CLERK presented the following Petitions concerning the Bill "relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same":—

A Petition from certain British subjects, or of European or American race, residents of Calcutta and of the Mofussil.

A Petition from the British Indian Association.

MR HARRINGTON moved that the Petitions just presented be printed, and in order that Honorable Members might have time for considering those petitions, he begged further to move

that the consideration of the Bill to which they related be postponed till Saturday next.

Agreed to.

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.

THE CHAIRMAN moved the introduction, before Rule 36 Section XCVII, of the following Rule, prepared by the Clerk of the Council, relative to Bodies Corporate:—

"Every Body Corporate, Company, or Society shall be charged to the duties contained in this Act by the Collector or Commissioners acting for the place where the head office in India of such Body Corporate, Company, or Society is situate."

Agreed to.

THE CHAIRMAN moved the introduction, after Rule 1 Section XCVIII, of a Rule, also prepared by the Clerk of the Council, relating to enfaced notes. The Rule, as finally amended in Committee, was as follows:—

"All Promissory Notes of the Government of India, which shall be enfaced for payment of the interest thereon out of India, either by Drafts or Bills on India or otherwise, shall in all cases be enfaced subject to the condition that the amount of any duties which may at any time be chargeable in India in respect of such interest, shall be deducted therefrom at the place where the interest shall be paid or the Drafts or Bills shall be given."

Agreed to.

Section XCIX provided as follows:—

"The duty hereby imposed contained in the Schedule marked 4, shall be assessed and charged under the Rules hereinafter mentioned; and the said duty shall be annually charged on the persons respectively holding or exercising the offices or employments of profit mentioned in Schedule 4, or to whom the annuities, pensions, or stipends mentioned in the said Schedule shall be payable for all salaries, perquisites, or profits whatsoever

accruing by reason of such offices, employments, annuities, stipends, or pensions."

THE CHAIRMAN moved the omission of the words "for all salaries, perquisites, or profits whatsoever accruing by reason of such offices, employments, annuities, stipends, or pensions" at the end of the Section, and the substitution for them of the following words prepared by the Clerk of the Council :—

"The duty in respect of every annuity, pension, or stipend shall be assessed upon the amount of such annuity, pension, or stipend, and the duty in respect of every office or employment shall be assessed upon the amount of all salaries, fees, commissions, or other profits accruing by reason of such office or employment, whether the same be paid by Government or received from any other person whatever or be deducted by the person holding such office or employment from any funds in his possession."

The Motion was carried, and the Section as amended was then passed. Rule 1 provided as follows :—

"Every assessment in respect of every such office and employment and of every such annuity, pension, and stipend, shall be made in cases requiring audit at the time of audit, and in all other cases at the time of payment."

THE CHAIRMAN moved the substitution for the above Section of the following Section prepared by the Clerk of the Council :—

"Every assessment in respect of every such annuity, pension, and stipend, and every assessment in respect of every salary or payment made by Government to any public officer, shall, in cases requiring audit, be made at the time of audit, and in all other cases at the time of payment."

Agreed to.

The postponed Rule 3 provided as follows :—

"The perquisites to be assessed under this Act shall be deemed to be such profits of any office and employment as arise from fees or other emoluments, and payable by the Government for the execution thereof, or received from any person in the course of executing such office or employment, and shall be estimated on the profits of the preceding year, ending on the 30th of April, or on any other day on which the accounts of such profits have been usually made up."

THE CHAIRMAN moved the substitution for this Rule of the following Rule prepared by the Clerk of the Council :—

"Every Public Officer chargeable under Schedule 4 of this Act in respect of any fees, commissions, perquisites, or profits, not being salaries to be assessed under Rule 1, shall be subject to, and shall be assessed under the provisions of the fourth part of this Act, and such fees, commissions, perquisites, and profits shall be estimated on the receipts in respect thereof during the preceding year, ending on the 30th April, or on any other day in which the accounts of such fees, commissions, perquisites, and profits have been usually made up."

Agreed to.

Sections CXXXVI and CXXXVII were passed as they stood.

Section CXXXVIII was passed after an amendment.

Sections CXXXIX to CXLI were passed as they stood.

Section CXLII was passed after a verbal amendment.

Sections CXLIII to CXLV were passed as they stood.

Section CXLVI was passed after a verbal amendment.

Sections CXLVII to CLXXIX were passed as they stood.

Section CLXXX was passed after amendments.

Sections CLXXXI to CLXXXIII were passed as they stood.

Section CLXXXIV was passed with the addition (on the motion of Mr. Harington) of words limiting to one year the period for the institution of a suit to establish claims to immovable property attached under this Act.

Section CLXXXV was passed as it stood.

Section CLXXXVI was passed after the omission of the exception in favor of a landlord's claim to arrears of rent due at the time of seizure of the goods or chattels of a defaulter.

Section CLXXXVII (which limited the landlord's claim to rent to six months) was omitted pursuant to the amendment in the preceding Section.

Sections CLXXXVIII & CLXXXIX were passed as they stood.

The 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.

Friday Morning, June 29, 1860.

PRESENT :

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

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

### 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.

Section CLXXX provided as follows :—

"Instead of proceeding by distress and sale, or by attachment and sale, or in case of failure to realise thereby the whole or any part of the duty assessed and payable under this Act, the Collector or Commissioners may, if they believe the defaulter is wilfully withholding payment of the arrears, or has been guilty of any fraudulent conduct in order to evade payment, issue their warrant for the arrest of such defaulter, and such warrant shall be of the same effect as the warrant of any Court of the district, and shall be executed in like manner. Such warrant shall specify a term of imprisonment in the Civil Jail, to be appointed by such Collector or Commissioners, which shall in no case exceed two years; nor a longer period than six months, if the arrear does not exceed five hundred Rupees, or a longer period than three months if the arrear does not exceed fifty Rupees."

The CHAIRMAN moved the omission of all the words from "believe the defaulter" to the end of the Section, and the substitution of the following :—

"think fit, issue a warrant for the arrest of such defaulter. Upon such warrant, the Officer charged with the execution thereof shall bring the defaulter with all convenient

speed before such Collector or Commissioners. If the defaulter shall not then deposit in the hands of the Collector or Commissioners the full amount of the arrears of duties under this Act, due and payable at the time of issuing such warrant, or make such arrangement for the payment of the same as shall be satisfactory to the Collector or Commissioners, or satisfy the Collector or Commissioners that he has no present means of paying the arrears, and that he has reasonable excuse for not having paid, such Collector or Commissioners may send him to the Civil Jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the mean time pay the full amount of the said arrears. Provided that the time for which a debtor may be confined in Jail under such warrant shall not exceed three Calendar months when the amount of such arrears shall not exceed fifty Rupees, or six Calendar months when such amount does exceed five hundred rupees, or two years in any other case. Provided also that such imprisonment shall not extinguish the liability to pay such arrears, but all property then belonging to the defaulter or afterwards acquired shall be liable to be distrained or attached under the provisions of this Act in satisfaction of such arrears, or of so much thereof as shall remain unpaid, as if no imprisonment had been ordered."

MR. HARRINGTON observed, with reference to that part of the amendment which provided that imprisonment should not extinguish the claim, that the Code of Civil Procedure provided that, when the amount of the decree did not exceed a certain sum, imprisonment should have that effect, and it might be a question whether the same provision should not be maintained in the present Bill. The subject had been considered by the Select Committee, and the Section, as now drawn, allowed a party to be imprisoned only when he wilfully refused to pay the tax or was guilty of any fraudulent conduct in respect of it.

SIR MORDAUNT WELLS said, he thought that, in cases of fraud, imprisonment ought not to extinguish the debt due to the Crown. Otherwise you would have combinations in districts to resist the payment of the tax, and although such persons might be willing to subject themselves to imprisonment, unless they were compelled to pay the Income Tax when they came out of jail, they would succeed in defeating the Government. Of course, with regard to parties who could give satis-