

Monday, 9th July, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

public conveyances in the Towns of Calcutta, Madras and Bombay, and the several stations of the settlement of Prince of Wales' Island, Singapore, and Malacca."

Agreed to.

POSTPONED ORDERS.

The following Orders of the Day were postponed:—

The adjourned Committee of the whole Council on the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices."

The adjourned Committee of the whole Council on the Bill "for the licensing of Arts, Trades, and Professions."

The Committee of the whole Council on the Bill "relating to the Transportation of Convicts."

The Committee of the whole Council on the Bill "relating to Emigration to the British Colony of Natal."

The Council adjourned at 6 o'clock on the Motion of Sir Bartle Frere, till Monday morning, at 7 o'clock.

Monday Morning, July 9, 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.,	Hon'ble Sir M. L. Wells.

FINANCES OF INDIA.

MR. SCONCE begged, before proceeding with the discussion on the Income Tax Bill, to ask the Right Honorable gentleman whether there was any ground for the apprehension entertained by some persons, that India was to be made to contribute towards the expenses of the present war in China.

MR. WILSON thought it quite natural that, at a time when we were about levying a new tax on the

resources of this country, he should be asked if the Indian Finances were to be burdened with the heavy expenses of the war England was carrying on with China. The finances of India labored at present under the same disadvantages as they had been doing of late, and no diversion of the resources of this country could be made to any other quarter. When he first read the observations which fell from Mr. Sidney Herbert in Parliament, and saw the small sum put down in the estimates for this expedition, his apprehension was excited. The remarks he alluded to also struck the Governor-General. They protested against India being made to bear any portion of these expenses, and the reply sent by the Home Government was a most satisfactory one. Not a shilling was to be paid by India towards the expenses of the war with China.

The rumour of Commissariat drafts being drawn upon this treasury was, however, not without foundation. It had been arranged by way of Exchange to allow the Commissariat to draw about £50,000 monthly. The sums so drawn were to be replaced in the East India House and credited to the account of Military and other stores sent out to this country. The treasury was certainly not quite full, otherwise our presence this morning would not be needed to discuss the way and means of replenishing it; but certainly we could spare the sum he stated, without there being any inconvenient pressure on the finances of India.

He (Mr. Wilson) believed, that even the expenses incurred here and in Bombay, in forwarding troops to China, had either been paid or would be paid immediately.

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 addition of the following words to Rule 4 of Section XCVI:—

“Every return required by this Section shall contain the name of any person not being ryots exempted under Section CXXIX of this Act, to whom such lands or houses or any part thereof are under-let by the person making such return, and the amount of rent payable on every such lease.”

The Motion was carried, and the rule as amended then passed.

The postponed 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.”

Mr. WILSON said, it had been suggested by the Bengal Government that the safest course would be to take the name of the person in the Collector's book and to deal with him alone, charging him with the Duty on the whole value of the land as tested by the jumma. But there were considerable difficulties in the way.

Sir MORDAUNT WELLS said, he hoped that the principle of the English Bill would be adhered to, and that the occupier, when found practicable, would be charged and then be allowed to deduct from those to whom he paid rent. It would be highly advisable in many districts to charge the tax in the first instance on the parties actually receiving the rents from the ryots. He spoke from experience in England of the advantage of this system, and he warned the Government that, if they adopted any other, they would lose a large part of their tax.

Mr. SCONCE said that it would be impossible to adopt such a system here. The infinite variety of sub-leases, both as to the amount of rent payable and the position of successive tenants, rendered it impossible. As

to the amount of rent receivable, it varied from one Rupee or less to several hundreds of Rupees. If you were to deduct the Income Tax from the tenant's rent, where would you begin? You could not call upon all ryots receiving one Rupee, or more or less, to render a return of their rent and make your deduction. Where then would you begin? You could not begin justly even with a rent of two hundred Rupees. Out of that sum the tenant might pay away one hundred or one hundred and fifty Rupees, and you could not with justice compel him to pay for your own convenience a tax to which he was not liable, and which you knew you were bound to refund. Again as to middle tenants land might be held by several co-sharers, each of whom had but a fractional share in the under-tenure. Gundah shares were of very common occurrence. A five gundah share was an eightieth part, and clearly if you deducted the Income Tax upon the gross rent, you would cause infinite inconvenience to men who were not liable at all. The rent payable to the superior landlord might be in like manner payable to a number of co-sharers, and among the whole body of recipients not one might be in the receipt of a clear two hundred Rupees. Cases of these minute subdivisions were infinite in number. Government had to see that, in getting in their revenue, they did not occasion any oppression. If the first receiver were held chargeable, whether he had a clear two hundred rupees for himself or not, it would often happen that the tax would be taken from him and that he would be left without any adequate remedy. The only proper and possible course was to take the returns of persons liable to be assessed, and to assess each upon his own profits.

THE CHAIRMAN said, there were difficulties either way. If the zemindars were held chargeable, it might be found that he had let his land in pretence, and that he was paying the Income Tax for others from whom he could not recover it. The Rajah of Burdwan, for instance, might be made to pay on an immense estate,

while his own receipts were from puttees which yielded him only a small portion of the value of the property. How was he to recover from the puttees? Then, on the other hand, there was the difficulty in the case of the occupier, which had been stated by the Honorable Member for Bengal. He (the Chairman) thought that the better plan might be to charge the receiver of the rents subject to deduction on what he paid to the superior, and to give the assessor the option of charging him without allowing that deduction, leaving the person himself to deduct.

SIR BARTLE FRERE said, he was inclined to adopt the rule suggested by the Government of Bengal. Under the existing system, the Government could only be certain of the zemindar in their books. They might tax him, and he might recover from those under him with whom he would be much better acquainted than the Collector could be.

MR. HARRINGTON said, he did not wish to prolong the discussion, but he must remark that he entirely concurred in the observations which had fallen from the Honorable Member for Bengal as to the difficulties and complications which would arise if they adopted either the rule advocated by the Honorable and learned Judge on his right (Sir Mordaunt Wells), or the alternative rule proposed by the Honorable and learned Chairman. He did not share in the apprehensions entertained by the Honorable and learned Judge that, if the rule, as it now stood in the Bill, were adopted, the Government would lose one-third of the Income Tax on the particular description of property to which that rule was intended to apply. On the contrary, it seemed to him that, if they abandoned the rule which required every landholder, whatever might be the nature of his tenure, to return his profits, and rendered him assessable thereon, and in lieu looked for the payment of the Income Tax on the land only to the tenant who actually collected the rents, many of the intermediate tenants or holder, who were properly assessable to the duty, would slip through, and the result would be

The Chairman

that the Government would be great losers. With regard to the objection which had been mentioned by the Honorable Member of Council (Sir Bartle Frere), namely, that, under the rule as it now stood, it would be impossible for the Government Officers to know from whom to expect or require returns, he (Mr. Harrington) would only observe that no greater difficulty should be experienced as regarded the particular classes assessable under the rule in question than would be found to exist in respect to other classes under Section XXXVII of the Bill. It would be the duty of the assessors to serve all persons within their jurisdictions, whom they considered liable to the Duties intended to be imposed, with a notice requiring a return of their income or profits. The rule which required these returns applied not only to bankers, traders, and house-holders, but to all holders of land, and as regarded the class last mentioned, it would be incumbent upon the assessor of the district or the Collector acting as assessor to find out every landholder or owner in his district, or other person deriving profits from land assessable to the Duties under the Bill, and to serve him with the prescribed notice. He (Mr. Harrington) thought it would be quite impossible, where an estate had been minutely sub-divided among a large number of tenants in the manner noticed by the Honorable and learned Chairman, to make every tenant pay, not only the Income Tax for which he was himself liable, but also the quota of the tax payable by some superior holder. He preferred the Section as it stood, and thought that it would be found to work satisfactorily.

MR. WILSON said, the principle of the Bill certainly was opposed to levying the tax on any one in respect of the liability of another, unless he had funds in his hands. A Puttee might pay for the zemindar and deduct the amount in his payment of rent. But the zemindar, if he paid for those below him, had nothing to deduct from, but would, in fact, be advancing the money for another. He was disposed to adopt the suggestion of the Chairman as the best solution of a practical difficulty.

THE CHAIRMAN then proposed several amendments, which were carried, and which made the Section run as follows:—

“In returning such rents and profits, the gross amount received and receivable during the preceding year, shall be fully stated; but if the person receiving or entitled to receive the same, be himself liable to pay, in respect of the said land, any land revenue to Government or any rent to any superior landlord, he shall state in his return the amount of such revenue and rent, and the name of the person to whom the rent is payable, and he shall be charged with the said Duties on his net rent and profits, whether received or not, after deducting the amount of such rent, or of the rent so payable by him to such superior landlord.

THE CHAIRMAN moved the addition of the following words to the Rule:—

“Or at the option of the assessor he may be charged with the Duties on the net rent and profits, without making any such deduction on account of rent, and in that case he may deduct from the rent payable by him to such superior landlord the amount of Duty paid on the amount of such rent.”

The question being put, the Council divided—

<p><i>Ayes 4.</i> Sir Mordaunt Wells. Mr. Wilson. Sir Bartle Frere. The Chairman.</p>	<p><i>Noes 3.</i> Mr. Sconce. Mr. Forbes. Mr. Harrington.</p>
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So the Motion was carried, and the Rule, as further amended, was then passed.

The further consideration of the Bill was 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.

Tuesday Morning, July 10, 1860.

PRESENT :

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

<p>Hon'ble Sir H. B. E. Frere, Right Hon'ble J. Wil- son, H. B. Harrington, Esq.,</p>	<p>H. Forbes, Esq., A. Sconce, Esq., and Hon'ble Sir M. L. Wells.</p>
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INCOME TAX.

The Order of the Day being read for the adjournment, the 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.

After a verbal amendment in Rule 6 of Section XCVI, which was divided into two Clauses,

THE CHAIRMAN moved the addition of the following Clauses to the same Rule:—

“Whenever any person shall pay the said duties on the rent or profits of any house or land, without deduction on account of any land revenue or rent payable by him in respect of such house or land, he shall have a right to deduct from any revenue or rent payable by him, as the case may be, a sum equal to the amount of the duty computed upon such revenue or rent.

“A deduction from revenue or rent under the provisions of this Act shall be deemed a payment to Government by the person from whom the deduction is made of the amount so deducted.”

Agreed to.

The postponed Rules 7 and 8 were passed as they stood.

THE CHAIRMAN moved the omission of all the Rules under the head of “Rules as to districts in which persons are chargeable,” and the substitution of the following:—

“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.

“Every person being a house-holder, except persons engaged in any trade, profession, or employment, shall be charged to the said Duties contained in Schedule 2 by the Collector or Commissioners acting for the place where the dwelling house of such person shall be situate.

“Every person engaged in any trade, profession or employment shall be charged to the said Duties contained in the said Schedule 2 by the Collector or Commissioners acting for each place where such trade shall be carried on, or such profession or employment shall be exercised.

“When any trade shall be carried on in India by the manufacture of goods, wares, or merchandize, the assessment thereon shall be at the place of manufacture, although the sale of such goods, wares, or merchandize shall be elsewhere.

“Every person not being a house-holder, nor engaged in any trade, profession or employment, who shall have any place of ordinary residence, shall be charged by the