

Tuesday, 31st July, 1860

**PROCEEDINGS OF THE
LEGISLATIVE COUNCIL**

**OF
INDIA**

Vol.6

JAN-DEC

1860

EMIGRANT VESSELS.

SIR BARTLE FRERE moved that the Bill "relating to vessels carrying Native Passengers to the British Colonies" be referred to a Select Committee, consisting of Mr. Sconco, Mr. Forbes, and the Mover.
Agreed to.

X INCOME TAX.

MR. WILSON was instructed (on his own Motion) to take the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices" to the Governor-General for his assent.

EMIGRATION TO NATAL.

SIR BARTLE FRERE was instructed (on his own Motion) to take the Bill "relating to Emigration to the British Colony of Natal" to the Governor-General for his assent.

SALE LAW.

MR. HARRINGTON moved that a communication received by him from the Government of the North-Western Provinces relating to Act I of 1815 and the Revenue Sale Law passed last year, be laid upon the table.
Agreed to.

PAPER CURRENCY.

MR. WILSON gave notice that he would, on Saturday, the 28th Instant, move the second reading of the Bill "for the introduction of a system of Paper Currency."

The Council adjourned at 4 o'clock on the Motion of the Commander-in-Chief.

Saturday, July 28, 1860.

PRESENT :

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

Hon'ble Sir H. B. E. Frere,	A. Sconco, Esq., and	Hon'ble Sir M. L. Wells.
H. B. Harrington, Esq.		
H. Forbes, Esq.,		

INCOME TAX AND EMIGRATION TO NATAL.

THE VICE-PRESIDENT read Messages, informing the Legislative

Council that the Governor General had assented to the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices," and the Bill "relating to Emigration to the British Colony of Natal."

THE VICE-PRESIDENT regretted to state that Mr. Wilson was prevented by indisposition from attending the Meeting of the Council to-day, and had requested him to postpone the motion (which stood in the Orders of the Day) for the second reading of the Bill "to provide for a Government Paper Currency" until next Saturday. There not being the quorum required by law for a Meeting of the Council for the purpose of making laws, the Meeting could not proceed with the other Orders of the Day, and must, therefore, be adjourned until Saturday next, unless otherwise expressly appointed. It being considered desirable, however, that the consideration of the Bill "to consolidate and amend the law relating to Stamp Duties" should be resumed on Monday or Tuesday evening next, he (the Vice-President) would suggest that next Tuesday evening, at half past 8 o'clock, would be the more convenient time for Sir Mordaunt Wells and himself to attend.

The Council accordingly adjourned at half past 11 o'clock to next Tuesday evening, at half past 5 o'clock, on the Motion of Sir Bartle Frere.

Tuesday Evening, July 31, 1860.

PRESENT :

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

Hon'ble Sir H. B. E. Frere,	H. Forbes, Esq.,
Rt. Hon'ble J. Wilson,	A. Sconco, Esq.,
H. B. Harrington, Esq.,	and
	Hon'ble Sir M. L. Wells.

RECOVERY OF RENTS.

THE CLERK presented to the Council a Petition from Bancemadhub Mittor, Native Inhabitant of Goutalee, in Zillah Nuddea, in the Province of Bengal, relative to a modification of Sections XXIII and XXX of Act X of 1859 (to amend the law

relating to the recovery of Rents in the Presidency of Fort William in Bengal).

Mr. HARRINGTON moved that the above Petition be printed.

Agreed to.

STAMP DUTIES.

THE CLERK reported to the Council that he had received from the Home Department communications from the Governments of Bengal and the North-Western Provinces relative to the repeal of Section XXXVII Act X of 1850 by the Bill "to consolidate and amend the law relating to Stamp Duties."

MOFUSSIL MUNICIPAL LAW.

THE CLERK also reported that he had received a communication from the Government of Bombay relative to an amendment of Act XXVI of 1850 (to enable Municipal improvements to be made in Towns.)

SIR BARTLE FRERE moved that the above communication be printed.
Agreed to.

WRECKED BOATS.

MR. SCONCE postponed, till next Saturday, the motion (which stood in the Orders of the Day) for the first reading of a Bill for the preservation of property recovered from wrecked boats.

RAILWAYS.

MR. FORBES, in moving the first reading of a Bill "to amend Act XVIII of 1854 (relating to Railways in India)," said that this was a short Bill, and it required that very little should be said on the occasion of its introduction.

The Council were aware that Act XVIII of 1854 was the law that regulated Railways in India, protecting the Railway Companies from fraud, and their property from injury, and protecting the public from the effects of carelessness, misconduct, and neglect. The law had generally been found fully effectual for the purposes for which it was passed, and the only part

which he believed had ever been considered to need amendment, was the part to which the Bill he was now to introduce referred, and to which he would now request the attention of the Council.

Section XXVII of the Act provided that

"Any Officer or servant of such Railway Company, who shall be in a state of intoxication whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, and any Officer or servant of such Company, who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding fifty Rupees; and if the duty in any of the cases in this Section above mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such Officer or servant shall, on conviction before a magistrate, be liable to imprisonment, with or without hard labor, for a term not exceeding one year, or to fine, or to both.

By Act XVIII of 1859, however, it was provided that offences declared by any Act to be punishable by a Magistrate should, if committed by a European in the Mofussil, or by any person within the limits of the Supreme Court, be punishable by that Court, except in cases in which jurisdiction was expressly given to a Justice of the Peace, and this, under the Railway Act, was confined to cases in which the offender was liable to fine only, so that at present, if a European was concerned, all offences for which a sentence of imprisonment was called for must be sent for trial before the Supreme Court.

Now the inconvenience that arose from this necessity to commit to the Supreme Court was very great, so great that it might amount to an entire failure of justice, for as the sufferers from, and the witnesses to, any misconduct on the part of a Railway servant must generally be the passengers by the train, whose stay at the Presidency was of course very uncertain, a trial before the Supreme Court might be unsuccessful solely from the absence of witnesses who could not wait the weeks or months that would intervene between the committal of the offender for trial and the next ensuing Sessions.

In Madras there were only four Criminal Sessions in the year, and it was very easy to understand how impossible it might be for passengers by a Railway to remain at the Presidency for two or three months to give evidence at a future Sessions as to the misconduct of a Railway servant.

It was proposed therefore by this Bill to amend the Act so far as to give Justices of the Peace in the Presidency Towns power to pass a sentence of six months' imprisonment with labor, in all cases in which they might consider that that punishment would be sufficient, and in which they might have reason to believe that a failure of justice would result if the case were committed to the Sessions, owing to the absence of any material witness, reserving to them the extended jurisdiction given by Section XXX of the Act, and leaving them in all other cases to follow the present law and commit to the Supreme Court.

The powers which it was now proposed to give under the Railway Act were not new, and a reference to Section XXXII of Act XIII of 1856, commonly called the Town Police Act, would show that, under circumstances similar to those which he had referred to, two justices might try summarily any case which they might deem it probable would fail, if prosecuted by indictment before the Supreme Court, owing to the departure of any material witness by any vessel that might be about to sail from the Port, and might sentence, on conviction, to imprisonment for one year, with labor.

More than one case had lately occurred of trains being driven by men in a state of intoxication, and the safety of the public imperatively called for such an interference of the Legislature as should prevent any man who committed so great an offence escaping punishment from the inability of witnesses to wait a long time before a trial could be held.

With these remarks he begged to move that the Bill be read a first time.

The Bill was read a first time.

INDEMNITY.

Mr. HARRINGTON moved that the Bill "to indemnify Officers of Govern-

ment and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances," be read a third time and passed.

The Motion was carried, and the Bill read a third time.

TRANSPORTATION OF CONVICTS.

Mr. HARRINGTON moved that the Bill "relating to the transportation of Convicts" be read a third time and passed.

The motion was carried, and the Bill read a third time.

STAMP DUTIES.

The Order of the Day being read for the third reading of the Bill "to consolidate and amend the law relating to Stamp Duties"—

Mr. WILSON moved that the Bill be re-committed to a Committee of the whole Council for the purpose of considering proposed amendments therein.

Section V (which prescribed how receipt stamps were to be denoted) was passed after a verbal amendment, and the addition of the following words:—

"It shall be lawful, until the Governor-General in Council shall direct to the contrary by an order to be published in the Gazette, to use a Postage Stamp of the value of half anna on every receipt, draft, or order for which a half-anna Stamp is required by this Act."

A verbal amendment was made in Section VI.

An amendment was made in Section XII (on the motion of the Chairman), the effect of which was to prevent deeds, instruments, or writings, not duly stamped, not only from being received in evidence as the Section already provided, but also from being acted upon in any Court of Justice or by any Public Officer.

Section XIII was passed after verbal amendments in the 1st, 2nd, and 6th Clauses.

Section XXI provided as follows:—

"Every vendor of Stamps shall write on the back (at the bottom of the page) of each Stamp which he issues, except Stamps used for Receipts or for Bills of Exchange, Drafts, or other orders for money, the date of issue, the

name of the person to whom it is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees."

Mr. WILSON proposed several amendments, which were carried, and which made the Section run as follows, the words in italics being those omitted or inserted :—

"Every vendor of Stamps shall write on some convenient part of each stamp which he issues, except Stamps used for Receipts or for Bills of Exchange, *Promissory Notes, Drafts, or other Orders for money, Bankers' Agreements for loans, or Bills of Lading,* the date of issue, &c."

Section XXXII was passed after a trifling amendment in the 1st Clause.

Verbal amendments were made in Sections XXXV and XXXVI.

Section XLII was passed after the substitution of "1st of October" for "1st of September," as the date of commencement of the Act.

Verbal amendments were made in the heading of Schedule A, and in Articles 1, 12, 13, and 17.

Article 19 related to Conveyances.

After a verbal amendment—

Mr. WILSON moved the introduction of the following new Clause in the article :—

"Conveyances when the consideration is an annuity" } The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity "

Agreed to.

THE CHAIRMAN moved the introduction of the following new Clause after the above :—

"Conveyances of any kind whatever not otherwise charged, if the value of the property conveyed, or of the consideration for the conveyance be stated, or appear on the face of the conveyance." } The same duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.

"If no value appear on the face of the Conveyance." } Fifty Rupees."

Agreed to.

Verbal amendments were made in Articles 21, 23, and 25.

Article 27 provided as follows :—

"Exchanges.—Any deed or instrument whereby by any real property shall be conveyed, or surrendered in exchange for other property—
If no sum of money shall be paid or agreed to be paid for equality of exchange." } Rupees. Annas.

If any sum of money be paid or agreed to be paid for equality of exchange. } A Stamp of value exceeding by eight Rupees the Stamp required for a conveyance in a case where the consideration is equal to the sum paid or agreed to be paid for equality of exchange."

THE CHAIRMAN proposed amendments, which were severally carried, and which made the Article run as follows :—

"Exchanges.—Any deed or instrument whereby any real property shall be conveyed or surrendered in exchange for real property" } The same stamp as for Conveyances."

A verbal amendment was made in Article 33

Article 34 related to letters or powers of Attorney not provided for in Schedule B.

THE CHAIRMAN moved the introduction of the following Clause before the Note :—

"Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another instrument, stamped with an *ad valorem* stamp under this Act" } The same Stamp as for a Bond.
If given as such collateral security as above mentioned } Rupees."

Agreed to.

Mr. WILSON moved the introduction of the following new articles after article 36 :—

"Re-conveyance of mortgaged property" } The same Stamp as for Assignments
"Release of an equity of redemption" } The same Stamp as for Conveyances."

Agreed to.

A trifling amendment was made in Article 40.

Article 47 contained the following exemption :—

"Wills, testaments, and the like, together with deeds merely declaratory of trust or otherwise, pursuant to any previous settlement, deed, or will."

Mr. WILSON proposed amendments, which were severally carried, and which made the Article run as follows, the amendments being printed in italics :—

"Wills, testaments, and the like, together with deeds merely declaratory of trust or appointment or apportionment or otherwise,"

execution of powers or pursuant to any previous settlement, deed, or will."

Mr. WILSON moved the introduction of the following exemption in the same Article:—

"Deeds for securing gifts or dispositions made by previous settlements, deeds, or wills."

Agreed to.

A verbal amendment was made in the heading of Schedule B.

Article 5 contained the following General Exemption:—

"Petitions or applications presented to any Munsiff's Court in relation to any suit or case of an amount or value less than fifty Rupees."

Mr. SCONCE moved the addition of the following words to the above:—

"Or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X of 1859."

Agreed to.

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

Mr. WILSON then moved that the Bill be read a third time and passed.

The Motion was carried, and the Bill read a third time.

Mr. SCONCE moved that Mr. Wilson be requested to take the Bill to the Governor-General for his assent.

Agreed to.

INDEMNITY.

Mr. HARRINGTON moved that Sir Bartle Frere be requested to take 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" to the Governor-General for his assent.

Agreed to.

TRANSPORTATION OF CONVICTS.

Mr. HARRINGTON moved that Sir Bartle Frere be requested to take the Bill "relating to the Transportation

of Convicts" to the Governor-General for his assent.

Agreed to.

The Council adjourned at half past 8 o'clock (on the Motion of Sir Bartle Frere), till Saturday, the 4th of August.

Saturday, August 4, 1860.

PRESENT:

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

His Excellency the Commander-in-Chief,	H. Forbes, Esq.,
Hon'ble Sir H. B. E. Frere,	A. Sconce, Esq.,
	and
H. B. Harrington, Esq.,	Hon'ble Sir M. L. Wells.

INDEMNITY, TRANSPORTATION OF CONVICTS, AND STAMP DUTIES.

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor-General had assented to 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"; the Bill "relating to the Transportation of Convicts"; and the Bill "to consolidate and amend the law relating to Stamp Duties."

MASTERS AND SERVANTS.

THE CLERK presented to the Council a Petition from the Calcutta Trades Association, on the subject of a law regarding Masters and Servants.

Mr. SCONCE moved that the above Petition be printed.

Agreed to.

PENAL CODE.

THE CLERK reported to the Council that he had received a communication from the Bombay Government, regarding the case of a Frenchman, who was charged with having obtained money and goods from a Tradesman in Poonah under false pretences, but who was obliged to be discharged owing to the defective state of the law.