

Thursday, 27th September, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

Section 75 was passed after the substitution of ten for five years as the term of imprisonment for lurking house trespass or house-breaking after preparation made for causing hurt to any person.

Section 76 was passed as it stood.

Section 77 (relating to lurking house trespass or house-breaking in view to the commission of an offence punishable with imprisonment) was passed after corresponding amendments to those made in Sections 71 and 74, the term of extended imprisonment being fixed at fourteen years.

THE CHAIRMAN, with the permission of the Council, went back to Section 14 (relating to robbery) and proposed the addition of the following words:—

“and if the robbery be committed on the highway, between sunset and sunrise, the imprisonment may be extended to fourteen years.”

Agreed to.

Section 78 was passed after the substitution of fourteen for seven years' imprisonment for lurking house trespass or house-breaking after preparation made for causing hurt to any person.

Section 79 was passed as it stood.

THE CHAIRMAN moved the introduction of the following new Section after Section 79:—

“If at the time of the committing of lurking house trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.”

Agreed to.

Sections 80 and 81 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 Mr. Harington, till to morrow morning, at 7 o'clock.

Thursday Morning, Sept. 27, 1860.

PRESENT :

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

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| H. B. Harington, Esq., | C. J. Erskine, Esq., |
| H. Forbes, Esq., | and |
| A. Sconce, Esq., | Hon'ble Sir C. R. M. Jackson. |

PENAL CODE.

The Order of the Day being read for the adjourned Committee of the whole Council “on the Indian Penal Code,” the Council resolved itself into a Committee for the further consideration of the Code.

THE CHAIRMAN, pursuant to the understanding come to on a former occasion, that there should be a special provision for the crime of larceny in dwelling houses, moved the introduction of the following new Section after Section 2 of Chapter XVII:—

“Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

Agreed to.

THE CHAIRMAN said that Section 3 of the same Chapter related to theft by a clerk or servant of property in the possession of his master or employer, punishable “with imprisonment of either description which may extend to seven years, or with fine, or both.” He thought that this was too heinous an offence to be punished only with fine, and that it ought to be punished both with imprisonment and fine. He should therefore propose the substitution for the words in italics of the words, “and shall also be liable to fine.”

The Motion was carried, and the Section then passed.

Section 1 of Chapter XVIII (of offences relating to documents and to trade or property marks) was passed as it stood.

Section 2 (defining what making a false document was) was passed after verbal amendments.

Sections 3 and 4 were passed as they stood.

Section 5 provided as follows:—

"Whoever forges a document, purporting to be a record or proceeding of a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or any other Register kept by a public servant, or any Certificate or Document purporting to be made by a public servant in his official capacity, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Several amendments were made in this Section, which, when finally settled, stood as follows:—

"Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or any Register kept by a public servant as such, or any Certificate or Document purporting to be made by a public servant in his official capacity, or any authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or any power of attorney, shall be punished, &c."

Section 6 provided as follows:—

"Whoever forges a document which purports to be a valuable security or a will, or which purports to give authority to any person to make or transfer any valuable security or to receive the principal, interest, or dividends thereon, or to receive any money, goods, or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Several amendments were proposed and carried which made the Section run as follows:—

"Whoever forges a document which purports to be a valuable security or a will or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt, acknowledging the payment of money, or for the delivery of any money, movable property, or valuable security, shall be punished, &c."

The two following Sections, omitted by the Select Committee, were

restored, to come in after Section 6:—

"Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

"Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

Sections 7 and 8 were passed as they stood.

Section 9, which provided imprisonment for seven years and fine for making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery, punishable under Section 6, was passed after the insertion of transportation for life as a punishment for the offence.

Section 10 was passed after the substitution of seven for three years, as the term of imprisonment for making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under any other Section of this Chapter than Section 6.

Section 11 provided as follows:—

"Whoever has in his possession any document which he knows to be forged, and which is or purports to be a valuable security, or a will, or which gives or purports to give any such authority as is mentioned in Section 6 of this Chapter, with intent that the same shall be used or uttered as genuine, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

THE CHAIRMAN moved the omission of the above Section, and the substitution of the following:—

"Whoever has in his possession any document, knowing the same to be forged and intending that the same shall be used or uttered as genuine, shall, if the document be one of the description mentioned in Section 5, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document be one of the description mentioned in Section 6, may be punished with transportation for life, or with imprisonment of either descrip-

tion for a term which may extend to seven years, and shall also be liable to fine."

Agreed to.

Section 12 (against counterfeiting a device or mark used for authenticating documents described in Section 6, or against possessing counterfeit marked material), was passed after the substitution of transportation for life, or imprisonment for seven years, for imprisonment for ten years, as the punishment for the above offences.

Section 13 was passed after the substitution of seven for two years' imprisonment for counterfeiting a device or mark used for authenticating documents other than those described in Section 6, or for possessing counterfeit marked material.

Section 14 related to the fraudulent cancellation, destruction, &c., of a will, and Section 15, of a valuable security; the former providing imprisonment for ten years and fine, and the latter imprisonment for three years and fine, as the punishment for the offences of which they severally treated.

The Sections were incorporated together, the incorporated Section running as follows:—

"Whoever fraudulently or dishonestly or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a will or any authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Sections 16 to 20 were passed as they stood.

Sections 21 and 22 were passed after verbal amendments.

Section 23 was passed after the substitution of three years for two years' imprisonment for fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

Section 24 was passed as it stood.

Section 25 was passed after the substitution of three years for one

year's imprisonment for fraudulently making a false mark upon any package or receptacle containing goods.

Sections 26 and 27 were passed as they stood.

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

The Council adjourned.

Saturday, September 29, 1860

PRESENT :

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

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| Hon'ble Sir H. B. E. Frere, | A. Sconce, Esq., |
| Hon'ble C. Beadon, | Hon'ble Sir C. R. M. Jackson, |
| H. B. Harrington, Esq., | and C. J. Erskine, Esq. |

GRANTS OF LAND.

THE CLERK reported to the Council, that he had received from the Home Department, an Extract from the Proceedings of the Government of India, relative to the proposed enactment of a law regarding the extension of the provisions of Act VI of 1849, to grants of land for services rendered to the State, or in support of titles conferred by Government.

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

RAILWAYS.

MR. ERSKINE presented to the Council a further communication which he had received from the Bombay Government relative to the Bill "to amend Act XVIII of 1854 (relating to Railways in India)," and moved that it be printed and referred to the Select Committee on the Bill.

Agreed to.

PORT-DUES (CALINGAPATAM AND MUNSOORCOTTAH).

MR. HARRINGTON said, the Honorable Member for Madras being