

Saturday, 1st September, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

With reference to the question raised by his Honorable and learned friend as to the expediency of Puisne Judges having a seat in this Council, he (the Vice-President) must confess he did not agree with him. He saw no objection, constitutional or otherwise, to Puisne Judges being Members of this Council. He could see no greater objection to Puisne Judges sitting in the Council than there could be to the Chief Justice. His Honorable and learned friend had made some complimentary observations regarding himself for which he (the Vice-President) felt much obliged to him. He (the Vice-President) had always endeavored to do his duty to the best of his ability, and he trusted that he should continue to do so as long as he had a seat in the Council. He had done nothing more. If the Government at home should think that, for political or other reasons, the Judges ought not to continue in the Council, he should cheerfully bow to their decision.

SIR BARTLE FRERE said, he was not aware, when he came down to the Council to-day, that his Honorable and learned friend opposite intended to make a statement on the subject, or that we were so soon to lose his services as a Member of this Council. But he thought he could safely say, even without having had an opportunity of consulting the head of the Government, that the Government of India was under great obligation to the Honorable and learned Judge for the able manner in which he came and assisted in carrying on the business of the Council. It was not only that he enabled us to form a quorum, but that he assisted us in the discussions which took place on the Income Tax Bill, the Stamp Bill, and, he (Sir Bartle Frere) would make no exception, the Arms Bill. No body who had taken an interest in the proceedings of the Council lately, could have failed to see how much attention the Honorable and learned Gentleman had applied to every subject which came before us. His Honorable and learned friend had differed on many points from other Members of the Council, and from none more than from himself (Sir Bartle Frere). But he

The Vice-President

(Sir Bartle Frere) had never seen any opinion drop from his Honorable and learned friend which was not the expression of an independent and honest judgment, and which, he (Sir Bartle Frere) had no doubt, had a beneficial effect upon all of us. Nobody could have attended the meetings of this Council without noticing the earnest attention which the Honorable and learned Gentleman had paid to the proceedings of the Council, and the personal labor which the Honorable and learned Judge had brought to bear upon the discharge of his duties. He (Sir Bartle Frere) could only regret that the Honorable and learned Gentleman's health should have suffered in consequence, and he begged in behalf of himself and the Council to return him their hearty thanks for the assistance which he had rendered them.

He (Sir Bartle Frere) would not here express any opinion as to the question raised by the Honorable and learned Judge. He would only say that it would be impossible for our deliberations to have been presided over with greater dignity or ability than ever since the present Honorable and learned Vice-President had filled the Chair, and whatever opinions might be held as to the political expediency of Puisne Judges of Her Majesty's Supreme Court sitting in this Council, we all had reason to feel our obligations to those trained legal minds which had so often thrown light upon their proceedings.

The Council adjourned.

Saturday, September 1, 1860.

PRESENT :

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

Hon'ble Sir H. B. E. Frere,	H. Forbes, Esq., A. Sance, Esq., and C. J. Erskine, Esq.
Hon'ble C. Beadon, H. B. Harington, Esq.,	

NEW MEMBER.

Mr. ERSKINE was duly sworn, and took his seat as a Member of the Council for the Bombay Presidency.

CRIMINAL PROCEDURE.

THE CLERK reported to the Council that he had received a communication from the Government of Bengal, forwarding papers containing opinions on the Bill "for simplifying the Procedure of the Courts of Criminal Jurisdiction not established by Royal Charter."

Mr. HARRINGTON moved that the above communication be printed.

Agreed to.

AFFRAYS (BENGAL).

Mr. SCONCE presented to the Council a correspondence received by him from the Government of Bengal, on the subject of affrays, and moved that it lie on the table.

Agreed to.

EMIGRATION TO ST. KITTS.

SIR BARTLE FRERE presented the Report of the Select Committee on the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Kitts."

EMIGRATION (FRENCH COLONIES).

Mr. BEADON postponed the first reading of the Bill "relating to the emigration of Native Laborers to the French Colonies," as he had discovered that it was one which, according to the Standing Orders, required at least one week's notice before the Motion for first reading could be made. The Bill was founded upon a Convention between the French and English Governments, having for its object the suppression of the slave trade in the French Colonies, by supplying them with Indian Laborers. He therefore gave notice of the first reading of the Bill next Saturday.

STAMP DUTIES.

Mr. BEADON said, he begged to propose a suspension of the Standing Orders, with a view to his bringing in a Bill for amending the Stamp Law recently passed by the Council. The necessity for suspending the Standing Orders arose from the fact that, as that

law would come into operation from the 1st of next month, unless immediate steps were taken for carrying into effect the proposed changes in the law, which he should presently notice, considerable public and private inconvenience would arise. The Stamp Act was carried through the Council before he had the honor of a seat in it. The task which he had now undertaken more properly appertained to his Honorable friend, the Member for Bengal, who had charge of the original measure; but in introducing the present Bill, he (Mr. Beadon) had had the permission of his Honorable friend, to whom he had stated the circumstances which had led to the necessity of fresh legislation on the subject. He (Mr. Beadon) might state that the defects in the existing law, which it was now proposed to amend, became apparent to the Governor-General in Council only yesterday, and as he was fully informed in regard to these defects, and the means by which the Government desired to remedy them, it had been thought proper that the management of the Bill should devolve upon him.

The first point was as regarded the applicability of the Act to the Straits Settlements. It was not the intention of the Government that the Act should apply to those Settlements. The question of removing the Straits Settlements from the control of the Government of India was now under the consideration of Her Majesty's Government, and it was therefore not considered advisable to include those Settlements in any new measures, especially financial measures, which might be passed by this Council. This Bill accordingly provided that the Stamp Act should not extend to the Straits Settlements.

The next point to which he would advert was this—There was a class of documents for which the use of adhesive Stamps was necessarily imperative. Ho meant Foreign Bills of Exchange, the Duties on which under the law, as it now stood, must be denoted by adhesive Stamps. But in fact there were no adhesive Stamps ready for the purpose, and they could not be

manufactured in India. An application had been sent to England for such Stamps of various denominations, but it was not possible that the indent could be executed for some months. It was therefore his intention to propose that so much of the Act as imposed Duties on Bills of Exchange, Letters of Credit, Drafts, and the like, if payable at any period not exceeding one year after date or sight, or otherwise related to such instruments, should not come into force until the 1st of January 1861, or until such subsequent date as the Governor-General in Council, by an order in the Gazette, might prescribe. In the meantime it was not proposed to allow that particular class of documents to be exempt from Stamp Duty altogether, and, therefore, he proposed, until such time, to revive all Regulations and Acts repealed by the present Act which related to such instruments.

The next point to which he had to refer also arose from the impossibility of procuring a proper supply of adhesive Stamps. Section V provided as follows:—

“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.”

It was equally necessary that the same provision should be made for one anna Stamps. As the Council would observe, he did not propose to postpone the operation of the Act with regard to documents requiring a Stamp of one anna, but simply to authorize the use of Postage Stamps of that value for the purpose until the Governor-General in Council should otherwise direct.

The next was a penal provision. The Post Office Act XVII of 1854 provided that, if any one should use a Stamp which had already been used upon a letter, he should be subject to a penalty; and the Stamp Act also provided against the use of a Stamp, once used on a receipt or draft, a second time on any document of the same kind. But there was no provision of law which

made it penal to use, as an adhesive Stamp on any Draft, Order, &c., a Postage Stamp which had been used on a letter, and *vice versa*. He therefore proposed to impose in such cases the same penalty as was provided in the Stamp Act for the second use of an adhesive Stamp.

There was one other point on which it was necessary to legislate. Under the head of Conveyances in Schedule A were transfers of shares in Banking Corporations or Joint Stock Companies, which were required to be on stamped paper. It seemed to have been overlooked, he thought, when the former Act was passed, that the only Stamp which could be used in such cases was an adhesive Stamp. The Act only provided for the use of adhesive Stamps on Receipts, Drafts, and Orders, but made no provision for their being used on transfers of shares. This was a mistake which, he thought, should be corrected by the present Bill. But as in this case also the difficulty would arise of procuring special adhesive Stamps, he proposed to enact that—

“Until the 1st January 1861, or such subsequent date as may be prescribed, every transfer of the shares of any such Corporation or Company which can now be effected by endorsement, shall be accompanied by a deed or memorandum of transfer bearing a Stamp of the value prescribed for such transfers, and no such transfer shall be valid, unless it be accompanied by a deed or memorandum stamped as aforesaid, any thing in any law to the contrary notwithstanding.”

For the present, it was necessary to provide that such transfers should be accompanied by a deed or memorandum of transfer bearing the requisite Stamp, without which the transaction would not be valid.

The Bill would be printed, and be in the hands of Honorable Members before next Saturday. If no serious objection should be made to the Bill, and if no material amendments were brought forward, it was his intention to propose that it should be read a second time next Saturday, and then move for a suspension of the Standing Orders with a view to carry the Bill through its remaining stages forthwith.

He now begged to move that the Standing Orders be suspended to enable him to move the first reading of the Bill.

SIR BARTLE FRERE seconded the Motion, which was put and carried.

MR. BEADON then moved that the Bill be read a first time.

The Bill was read a first time.

LICENSING OF ARTS, TRADES, AND PROFESSIONS.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "for the licensing of Arts, Trades, and Professions," the Council resolved into a Committee for the further consideration of the Bill.

Section I (the repealing Clause) was passed after a verbal amendment.

Section II provided as follows:—

"From and after the said day of every person who shall carry on any lawful Art, Trade, or Profession as hereinafter described, shall be required to take out such license as is in Schedule A to this Act annexed directed, namely:—

Every person who shall carry on any Art or trade having for its object the procurement of gain to such person:

Every Company or Association or body of persons who shall carry on any Art or Trade as aforesaid, whether constituted a Company by Act of Parliament, Royal Charter, Letters Patent, or Act of the Legislative Council of India; or constituted or regulated by deed of settlement or other instrument:

Every partnership of persons who shall carry on any Art or Trade for the procurement of gain to such partnership:

Every practising Barrister, Attorney, Vakeel, and Mookhtear; every Member of any College of Physicians or College of Surgeons, and every Medical Graduate of any University or College, not being in Her Majesty's Army or in Her Majesty's Indian Army; every Architect; every Civil Engineer."

SIR BARTLE FRERE begged to move the omission of this Section and the substitution of the following:—

"From and after the 1st day of January 1861, every person in India who shall exercise any lawful Art or Trade shall be required to take out such certificate as is in Schedule A to this Act specified."

MR. SCONCE said, if he was not out of time in rising to offer some observations on Schedule A., which

was referred to in the Section now before the Council, he begged to express his conviction that both as to the arrangement of the classes and the rates of Duty, the Schedule, as it was now framed, was certainly a great improvement upon the original Schedule. He observed that the rates of Certificate Duty were now proposed to be four Rupees, two Rupees, and one Rupee. He observed also that in Section IX of the Bill there was an express provision that any party charged with Income Tax should not be obliged to take out a certificate and pay any tax under this Bill. It happened necessarily that the highest amount charged under this Bill would correspond with the lowest under the Income Tax. He wished to know how the assessing Officers were to be guided in fixing the amount which a man would have to pay; and he thought that, if it were possible, some rules with regard to this point might, with advantage, be embodied in the Bill. He did not wish to raise any difficulty in the way of the Bill, but it would be satisfactory to him to know on what principle the Government proposed to carry it out. Was a man earning by a trade a hundred Rupees a year to be taxed four Rupees? That would be the same amount which a person having an income of two hundred Rupees a year would have to pay under the Income Tax. He would propose to exempt all earnings below seventy-five Rupees a year. He would do away with the three rates, and charge those earning between seventy-five and one hundred and twenty-five Rupees with one Rupee, and those earning more than one hundred and twenty-five Rupees and less than two hundred Rupees with two or two and a half Rupees. What was wanted, it seemed to him, was a declared basis of assessment which should be for the guidance both of Collectors and of the persons assessed. Upon this principle License Duties were charged in England. In the Bill of the present year respecting Wine Licenses, the rate of Duty was determined by the rent of the shop, a rent of £50 giving a Duty of so much, a rent of £20 so

much less. The same rule was before followed in England as to Spirit Licenses. But in every case, the mode of imposing the Duty varied according to the subject of the license. Medicine vendors in London paid £2, in cities 10 shillings, elsewhere 5 shillings, and so on. He alluded to these instances to show that a taxing Officer should not be allowed to take what he pleased, but that the law should specifically declare what he was to take. He was very sensible of the great improvement which had been made in the Bill, as it at present stood, and it was not his wish that what he now said, should be taken in the light of opposition, but that the Council might if possible introduce into it a more determinate scheme of assessment.

SIR BARTLE FRERE said, he was much obliged to the Honorable Member for his remarks, although, in making them, he had anticipated the discussion which would better take place on Schedule A. It was his (Sir Bartle Frere's) purpose, if the Bill should pass the Committee to-day, that it be reprinted, so as to elicit further criticism before its third reading, and that the instructions which it was proposed to issue to the Officers who would be entrusted with the duty of carrying them out, be at the same time printed. His Honorable friend would then have an opportunity of seeing them both together. There was only one general observation that he would make against adopting too closely the machinery of the Income Tax Act. In taxing large incomes, it was necessary that we should invest those who had to gather the tax with the power of verifying the means of those who paid the tax. Although this Bill would be a supplement to the Income Tax Act, it was not desirable that the machinery of the Income Tax should be applied to those who would have to pay it. He was sure that his Honorable friend would bear him out in saying that it was a matter of very great importance not to subject small traders to the inconvenience of enquiry as to their precise earning. He (Sir Bartle Frere) need not add that, when we should come

to Schedule A, he would have no objection to discuss the question as to rates.

THE CHAIRMAN said, he confessed that, unless some very stringent rules for the collection of the tax were laid down and included in the Bill itself, it would prove very harassing to the people. In the first place, he did not think that any man should be obliged to go beyond a certain distance to pay his tax. The Bill provided that the Collector was the person from whom certificates were to be obtained. Now a man might have to go two hundred or three hundred miles to take out his certificate. Not only would he have to pay his tax, but he would also be obliged to go to the Collector to take out a license. As a great many people would be applying for licenses at one and the same time, he might be kept waiting several days before the Collector would attend to him. There was nothing in the Bill making it obligatory on the Collector to give a certificate within any specified time, and there was no provision in the Bill limiting the distance which a man should be required to go to take out a certificate. It might sometimes happen that a man would lose the benefit of several days' work to take out his certificate. He might not know under what class he was to come, and whether he was to pay one Rupee or four Rupees; and until this matter was determined, his work was to stop. He (the Chairman) believed that a much less objectionable form of tax than this might be that of a Poll Tax, and then there would be no difficulty as to the amount. He also thought that all such small duties should be collected at a man's own house, and not that he should be kept waiting as at a Court of Justice. He (the Chairman) would very much prefer a Poll Tax of one Rupee to be levied on every adult, and collected by the head man of each village, to whom a commission might be allowed. Then there would be much less inconvenience than would be felt by requiring persons to travel from a distance. He did not know if the rules would provide for the collec-

tion of the tax at a man's own house, because, if not, he (the Chairman) thought that a man ought to be discharged from all liability the moment he paid his money and came away. But then the difficulty would arise, whether he had paid or not. He did not know if the rules made any provision relative to a tender of the amount. A man might not know what he ought to pay, and he might tender what the Collector might not consider a sufficient amount. Then, again, there were trades carried on by women, such as feeding silk-worms, &c. Would they be required to travel forty or fifty miles to pay the tax and take out a license?

Mr. FORBES said, he quite agreed with all that the Honorable and learned Chairman had said as to the oppression which this Bill was likely to cause, if, as was at present proposed, every person liable to be taxed under it was to be obliged to attend in person at the Collector's Office within the first fifteen days of every year in order to obtain a renewal of his license or certificate; and as he (Mr. Forbes) had had some experience in the collection of the Mohlurfa Tax in Madras, he hoped that the Council would allow him to say a few words. In the first place, it was a great mistake for Honorable Members to suppose that these taxes, however small they might be individually, would, as a general rule, ever be paid in full. They could only be collected by instalments of two, three, or four annas at a time, and their collection must necessarily be spread over a period of four or five months. He intended, when the Committee came to Section VI of the Bill, which provided for the commencement and expiration of a license, to move an amendment to the effect that every license, when once granted, should remain in force until it was cancelled, or until such an improvement of the grantee's means should take place as to induce the Collector to place him under some class other than the one in which he had been originally placed. In the Presidency of Madras, where the Mohlurfa Tax was still collected, the traders and artisans

were not called upon to attend at the Collector's head-quarters within any limited time, nor was it necessary that the whole amount of the tax should be paid by each individual in advance at the time of taking out his license or certificate. The Collector or one of his Covenanted subordinates made an annual tour through each Pergunnah, and those liable to the Mohlurfa Tax attended his office when it was nearest to their own residence—the tax was collected by instalments spread over half the year. The Honorable Member for Bengal, he believed, had calculated that from this tax about forty thousand Rupees would be annually received from each District in Lower Bengal. This would give an average of about twenty thousand payers, and that was alone sufficient to show how impracticable was the proposal that every man should attend and receive a license or certificate within the first fifteen days of each year. Unless the Honorable and learned Chairman were himself to move an amendment, he (Mr. Forbes) should move his amendment when the Committee came to Section VI of the Bill.

Sir BARTLE FRERE said, he entirely agreed with what had fallen from the Honorable and learned Chairman, and he (Sir Bartle Frere) hoped that, when the rules were printed, they would be found to meet many of his objections. If any Honorable Member should consider that any of those rules ought to be embodied in the Act, he (Sir Bartle Frere) would give him the opportunity of making a motion to that effect by moving for a recommittal of the Bill for that purpose. There was a great diversity of practice in the several districts. Considerable delay had occurred in receiving answers from different parts of the country, and one set of answers he received only late yesterday evening. With regard to the difficulty of collecting the tax, except at every man's residence, he (Sir Bartle Frere) might state from the experience which he had had, that the difficulty would be solely confined to Bengal. In the North-Western Provinces and the Punjab, and throughout Bombay and Madras, there was

a machinery which would render it unnecessary for persons assessed to this tax to leave their own village for the payment of it. It was only when they wished to appeal from an assessment that they had to attend on the Officer when he came near their residence. He (Sir Bartle Frere) had had some experience in collecting taxes, and nothing was clearer to him than that a person should get his receipt or check for what he had paid. The plan alluded to by the Honorable Member for Madras, of letting a certificate continue in operation until it was cancelled, was worthy of adoption. There must, however, be some provision for the payment of the tax in Bengal similar to what was provided for by the machinery now in force in the other parts of India, and the orders of the Lieutenant-Governor would, he hoped, suffice to carry out the views of the Honorable and learned Chairman, as soon as possible after the passing of the Act, with regard to the collection of the tax at every man's residence.

As to the question of levying a Poll Tax, if it were to have come up as an entirely new measure, he should have felt less difficulty in agreeing with the Honorable and learned Chairman. But the subject had already been under the consideration of Government, and had for many reasons which he need not recapitulate been negatived. It must be borne in mind that the existing Salt Tax was practically a Poll Tax, and another consideration was the immense machinery that would be required to carry it out. He (Sir Bartle Frere) hoped that the rules to which he had adverted, would be in the hands of Honorable Members, and, as he had already mentioned, if any part should be considered necessary to be embodied in the Bill, he would have no objection to their introduction.

Mr. SCONCE said, he thought that the rules referred to should adequately provide for the assessment of the tax. He would draw the attention of the Council to the immensity of the work which the collection of this tax would involve. The moment the Bill was passed, the whole surface of Bengal would be set moving like

an ant-hill. In a Minute written by the late Lieutenant-Governor of Bengal some years ago upon the Police, he found the number of villages in each District of the Regulation Provinces inserted. In the District of Dinagepore, there were 8,517 villages. Suppose there were ten men in each village liable to the tax, there would be 85,000 persons set moving upon the Collector to get certificates on the 1st of January, without which they would be liable to a penalty, if they carried on their trade. In the District of Tirhoot, there were 5,400 villages, and ten men from each would make 54,000 men. In the District of Midnapore, there were 11,000 villages, which would send 1,10,000 men to the Collector for the purpose of getting certificates. In the District of Mymensing, there were 13,000 villages. His object in drawing attention to this matter was strongly to urge upon the Government the necessity of appointing a large establishment for the purpose of collecting the tax, and he trusted that the Council would take care that the people were protected from the injustice to which a loosely drawn enactment would subject them.

THE CHAIRMAN said, with reference to what had fallen from the Honorable Member for Bengal, it would be impossible that all those persons in the villages could be made aware of the existence of such a law. How were you to bring the law to the knowledge of those persons? None of them might know that the Bill had been passed, so as to start for the Collector to pay the tax. Consequently every one of them who did not go and carry on his trade, was liable to a penalty, to be inflicted by the Magistrate, of ten times what he would have been assessed by the Collector. How was the Magistrate to know whether the Collector would have assessed him at one Rupee or four Rupees. He (the Chairman) entertained a strong objection to the levy of a varying Duty, unless you could specify the Duty payable by particular classes. If a man earning fifty Rupees by trade were to be assessed at four Rupees, that would be tantamount to a tax of

eight per cent., whereas under the Income Tax, a man drawing two hundred Rupees paid two per cent. Upon the whole, therefore, he thought that the safer course would be to levy a uniform Duty of one Rupee, or if a varying Duty was to be imposed, to specify the rates for particular trades. He should prefer the former, rules being laid down for the guidance of the Officers by whom the tax was to be collected. It would be much better also to provide for the recovery of the tax by distress than for the imposition of a penalty of ten times the amount of the tax. If there were no goods to satisfy the distress, were you for one Rupee to throw the man into prison, whence he would issue a much worse man than when he went in? He proposed that the Section now before the Council should be altered, so that parties should not be required to take out a certificate, but to pay a Duty to be specified in the Schedule. He also thought that there should be provision for the payment of the Duty by half yearly or quarterly instalments.

MR. HARRINGTON said, it appeared to him that, if parties were so extremely poor, that at the commencement of the year they were unable to pay a license or certificate Duty of one Rupee, and that the only way in which the Duty could be recovered from such persons was by extorting or extracting it in payments of two or three annas at a time, as they became possessed of so much money, they ought not to be required to pay the Duty at all. He did not understand that the Bill was intended to apply to artisans, who could pay the Duty which it imposed, only by annas and pies. The Government had very liberally, and as he thought wisely, provided in a later Section of the Bill for the exemption of persons from the Duty payable under the Bill, who could satisfy the Collector or other Officer appointed to collect the Duty, of their inability to pay the same, and it appeared to him that persons of the classes to which he had been referring, must be considered as falling within this exemption.

THE CHAIRMAN said, he had no wish to remove the exemption

which now stood in the Bill in favor of those who were too poor to be taxed under it. The Income Tax, however, was paid quarterly, and he did not see why, when we were dealing with persons of small earnings, who could not afford to pay a Rupee a year at once, we should not allow them also to pay their Rupee by instalments.

MR. HARRINGTON remarked, that there must be proof of, at the least, a yearly profit or gain of two hundred Rupees, or no Income Tax could be levied. This made the case of the payers of that tax very different from the classes to which he had referred.

MR. FORBES said, he thought it would be found, in reference to this tax, that it was the pence and not the pounds, that would contribute most largely to the coffers of the State. It would be the accumulation of the many small sums and not the few large sums, that would bring in the Government revenue.

MR. BEADON said, we were not altogether without experience in this matter. In Arracan, Pegu, and the Martaban Provinces, there had been a Poll Tax in force since the acquisition of the country. It was not so low, however, as one Rupee. But it was a tax of four Rupees a head in the more civilized and highly cultivated parts of the Provinces, and extended to all classes of the adult population above the age of 18 and under 60 years. The tax was not collected with any difficulty at all. It was due in one payment, but in practice it was taken in two or more instalments, and no difficulty was experienced in its collection. So much so that, when he was talking not long ago to that distinguished administrator, Colonel Phayre, that Officer strongly represented to him that he saw no use in introducing an Income Tax into Pegu, as he had the means of bringing in a much larger revenue to Government by increasing the present capitation tax by 25 per cent. or from 4 to 5 Rupees. But, of course, the Income Tax could not be adopted in one place and not in another; and although he was not prepared, as regards this Bill, to adopt a uniform tax instead of the graduated

tax now proposed, still the tax was collected in those Provinces, not only without any difficulty or oppression, but with the utmost cheerfulness. He only made these remarks with reference to what had fallen from the Honorable and learned Chairman, in order that the Council might give them such weight as it might think proper.

After some further discussion, the Chairman moved some amendments which were carried and which made the Section run as follows :—

“ From and after the 1st day of January 1861, every person or partnership in India, who shall exercise any lawful Art, Trade, or dealing for gain or profit shall be required to pay the Duty specified in Schedule A of this Act.”

Section III provided as follows :—

“ From and after the said every person dealing in tobacco shall also be required to take out such license as is in Schedule B to this Act annexed directed.”

The Section was passed after some amendment, which made it stand as follows :—

“ From and after the said 1st day of January 1861, every person in India dealing in tobacco shall be required to take out a license for each shop or place of business in which he or they shall so deal in tobacco. Every license granted under this Act shall specify the date of the grant thereof, the true name of the person to whom the same is granted, that such license is granted for dealing in tobacco, the sum to be paid annually for dealing in tobacco, so long as such license continues, and the place at which the grantee is licensed to sell or deal in tobacco. No license granted under this Act shall be transferable, except as hereinafter provided.”

Section IV provided as follows :—

“ Every license under this Act shall be granted by the Collector of Land Revenue of the District or place in which the person requiring such license shall carry on his Art, Trade, or Profession, or shall deal in Tobacco, or by such other Officer as the local Government shall appoint or authorize in that behalf. If the person requiring such license shall carry on his Art, Trade, or Profession, or shall deal in Tobacco in more than one District or place, the license shall be granted by the Collector or other authorized Officer of the District or place in which the chief office or place of business of such person is situate ; but if the Art,

Mr. Beadon

Trade, or Profession, or the dealing in tobacco so carried on at any one District or place be distinct from and not necessarily from its nature connected with that carried on at any other District or place by the same person, then a separate license shall be chargeable in each District or place in which such separate Art, Trade, or Profession, or such dealing in Tobacco is so carried on.”

SIR BARTLE FRERE moved the omission of the above Section and the substitution of the following :—

“ The Collector of Land Revenue or other person specially appointed by him for the purpose shall grant licenses under this Act to persons dealing in tobacco, and shall grant certificates of payment for Duties under Schedule A.”

THE CHAIRMAN said, he thought there should be some check in the power proposed to be vested in the Collectors by this Section. The words “ or other person specially appointed by him for the purpose ” seemed to him to be too general. He thought that the agency for working the Act should be defined in the Bill.

MR. BEADON said, he thought it would answer the object of his Honorable friend opposite (Sir Bartle Frere) to restrict the power of granting licenses to Collectors, because, under that denomination it could be exercised by all officers having the powers of a Collector. As the amended Section stood, a Collector might appoint any one he pleased ; and though he might not appoint an unfit person, yet the existence of such a power would be likely to give rise to false personation and fraud. There were analogous provisions in our Revenue law under which powers given to Collectors might be exercised by any Assistant or Deputy Collector having the requisite authority ; and in the North-Western Provinces and the Punjab such powers were generally exercised by Tehsildars. He (Mr. Beadon) did not think that the power of granting licenses under this Act should be entrusted to any one but an officer appointed by the Government.

SIR BARTLE FRERE said, he had no objection to omit the words “ or other person specially appointed by him

for the purpose." He introduced them only to meet an objection of the Honorable Member for Bengal, regarding the distance that some persons would be obliged to travel before they could reach the Collector for the purpose of taking out a license.

Mr. ERSKINE said that at the amended Section, if he had rightly heard it, placed on the local Government the responsibility of providing adequate agency for the collection of Duties and issue of licenses. He thought this general discretion might safely be entrusted to those Governments, who need not be restricted in their selection of agents.

After some further discussion, the Section was amended as follows on the motion of the Chairman :—

"Licenses to deal in tobacco under this Act shall be granted by the Collector of Land Revenue, or by the Deputy Collector or person exercising the full powers of a Collector, or by any person specially authorized by Government to grant such licenses."

SIR BARTLE FRERE moved the omission of Sections V to VIII, and the substitution of the following :—

"Every person to whom such license shall be granted shall, for every year during the continuance of such license, pay the rate of Duty specified therein, not exceeding the rate mentioned in Schedule B, and such Duty shall be payable in advance half yearly or in such other manner as shall be specified in the license.

"Every license granted under this Act shall have effect and continue in force from the day of the date thereof, until the same shall be surrendered by the grantee to the Collector or such other Officer as aforesaid, or until the expiration of the current year of such license, in which he shall have received notice from the Collector calling upon him to renew such license at a different rate of Duty. No surrenderer of a license shall release the grantee from liability to pay any Duty that would otherwise be payable during the current year.

"If any person who has taken out a license under this Act shall die during any portion of the year in respect of which he has paid Duty in advance, no further Duty shall be payable under the license, unless the dealing shall be carried on by his representative, or by some person to whom the license has been transferred. Whenever any person shall die or assign his trade or dealing, in respect of which a license has been granted his representative, or any person to whom the license

shall be transferred, shall be liable to pay the Duty mentioned in the license for the period during which such representative or other person shall carry on the dealing under the same, in the same manner as if the license had originally been granted to him."

THE CHAIRMAN moved that the consideration of the remaining Sections be postponed till after the consideration of the Schedules.

Schedule A provided as follows :—

"Every artisan	...	1	Rs. yearly.
Every petty dealer or trader of Class II	..	2	" "
Every retail dealer or trader of Class I, or small manufacturer for retail only	..	4	" "
Every wholesale dealer, trader, banker, manufacturer for wholesale or retail, and every member of a profession	..	10	" "

SIR BARTLE FRERE moved the omission of the above Schedule, and the substitution of the following :—

"Every person who shall exercise any art, trade, or dealing for gain or profit for any period between the 1st of January in one year and the 1st of January in the succeeding year, shall pay for such period—

If belonging to Class I	...	4	Rupees.
" " " II	..	2	" "
" " " III	..	1	" "

THE CHAIRMAN said, he would have preferred a uniform rate of Duty in the form of a Poll Tax, but he would be content with the following classification of trades and specification of rates :—

"Bankers and Money-lenders	..	3	Rupees
Shop-keepers	..	2	" "
All other cases	..	1	" "

After some discussion upon the above proposition, and also respecting the reduction of the maximum rate from four to three Rupees, the former being the minimum rate under the Income Tax Act, the Schedule was passed, with the substitution of the figure 3 for the figure 4.

Schedule B provided as follows :—

"Every petty dealer in Tobacco in a village	..	Rs. yearly.
Every other dealer in Tobacco in a village	..	" "

Every petty dealer in Tobacco in a Town	Rs. yearly.
Every other dealer in Tobacco in a Town	" "

SIR BARTLE FRERE moved the omission of the above Schedule, and the substitution of the following:—

" Rates of fees to be paid for their licenses by traders in Tobacco—

	Per Annum.
Wholesale dealers, 1st class ..	Rs. 100
Ditto ditto, 2nd ..	50
Retail dealers, 1st ..	24
Ditto ditto 2nd ..	12
Ditto ditto 3rd ..	4
Ditto ditto 4th ..	2

In doing so, he said he proposed, with regard to this Schedule, to lay down some rules which he hoped would be found satisfactory by the Council. If, on recommitment, it should be considered desirable to import them into the Bill, he would have no objection to their introduction.

Mr. SCONCE said, he entertained strong objections to the proposed Schedule, both as regards the classification and the rates. There was nothing to show how the classes had been divided into different grades. The general rule, as laid down in the Interpretation Clause, was, that whoever sold Tobacco in quantities of one maund or upwards, in any one transaction, was a wholesale dealer, and whoever sold less than a maund in any one transaction, was a retail dealer. Often possibly a wholesale dealer would sell in the course of a year less than a retail dealer, and yet the former was to be charged a much higher rate of Duty than the latter, not with reference to the quantity of Tobacco sold by each in the year, but simply because he was a wholesale dealer, whilst the latter sold by retail. His next objection was that the law did not specify why certain wholesale dealers should pay a hundred Rupees a year, and others fifty Rupees; he did not like this sort of guess-work. In the same way, if we came to the lower rates in detail, he could not see how the Collector was to go to work and charge one retail dealer twenty-four Rupees, another

twelve Rupees, a third four Rupees, and a fourth two Rupees. He had already referred to the definite principles by which License Duties were regulated in England, and with the permission of the Council he would revert to it. In the case of Tobacco, mere dealers were all charged alike 5 shillings, while manufacturers were charged according to the total quantity manufactured: thus a manufacturer who did not dispose of more than 20,000 pounds weight, or 250 maunds, paid £5; another for a quantity not exceeding 500 maunds, was charged £10, and so on; and certainly it seemed to him that the Duties chargeable under this Bill should be regulated by an equally intelligible principle. Then there was another matter of very great importance. We had had no information from the Honorable Gentleman as to the effect which the levy of these Duties would have upon the price of Tobacco. Supposing a wholesale dealer sold only ten maunds, as might possibly be the case, and you took a hundred Rupees from him, that would be at the rate of ten Rupees a maund. If he sold fifty maunds, and you took a hundred Rupees from him, that would be at the rate of two Rupees a maund. In like manner as to retail dealers. Suppose also that a retail dealer sold 24 maunds, the Duty would be one Rupee a maund, and thus it might be that by adding together both the wholesale and retail Duties, the price of Tobacco would be raised by three Rupees a maund. Now as the Council well knew, the first project of a Tobacco Tax had been given up from the apprehension that it would bear too heavily upon the people, and it was a very material point to be assured now, that the present proposal would not also have the same injurious operation.

SIR BARTLE FRERE said, he thought the Honorable Member for Bengal had made some mistake with regard to the definition of wholesale dealers. The Bill did not propose to define how the dealers under every head were to be classified. As he (Sir Bartle Frere) had already said, the

Rules would provide for all this, and any Honorable Member would be at liberty to move any amendment he pleased before the third reading. He also promised to give all the information as to the effect which this Bill was likely to have upon the price of Tobacco. As to wholesale dealers, he (Sir Bartle Frere) proposed one hundred Rupees as the maximum, and two Rupees as the minimum rate for retail dealers. The rates were considerably below what had been proposed by all the Officers who had been consulted. He hoped that the Honorable Gentleman would take his (Sir Bartle Frere's) assurance that, before he was called upon to vote for the third reading, he should have all the information there might be before the Government, and then if he should think that the rates were too many or too few, or too high or too low, he (Sir Bartle Frere) would be prepared to argue the matter with him.

THE CHAIRMAN said, he thought it was hardly fair to expect him to vote in favor of the Schedule subject to certain information which the Honorable Member proposed to lay before the Council. He (the Chairman) would rather postpone the consideration of this Schedule until that information could be submitted to the Council.

Mr. SCONCE said, he was sorry he could not accept the assurance of the Honorable Member opposite (Sir Bartle Frere) He would put it to the Council whether any one of the objections which he had taken to the Schedule had been answered. 1st, as to the distinction between wholesale and retail dealers; 2nd, as to the several grades of wholesale and retail dealers; and lastly, as to the effect which the tax would have on the price of Tobacco.

SIR BARTLE FRERE said, he was anxious to have the Bill in such a form as would admit of its being printed. As he had already more than once said, if this Bill were passed by the Committee to-day, no Honorable Gentleman would be pledged to the third reading of it. He was therefore sorry that he could not concur in the propo-

sition of postponing the consideration of this Schedule.

THE CHAIRMAN said, he did not see how the Council could vote in support of the Schedule without the information referred to. If the printing of the Bill was the only matter for consideration, the Schedule might be printed without the insertion of any rates, blanks being left for them.

Mr. HARRINGTON said, as he understood it was the intention of the Honorable Member of Council who had assumed the charge of this Bill, to move, as soon as the Bill should have passed through a Committee of the whole Council, that it be republished for general information, he thought that the best course they could pursue was to adopt the rates of Duty proposed by the Government for both wholesale and retail dealers in Tobacco, on the understanding that Honorable Members, by now voting for those rates, were not to be considered as absolutely pledged to them, but that if the opinions or representations which might be elicited by the proposed republication of the Bill should show that they were too high, any Honorable Member would be at liberty to vote for such reduced rates as might be deemed equitable and proper. They had the assurance of the Honorable Member of Council, who was in charge of the Bill, that the rates of Duty proposed in it on licenses to sell Tobacco were very much below the rates recommended by the local Governments or some of them, and he thought that, if they adopted for the present the rates specified in Schedule B, as it now stood, and allowed the Bill to be republished with those rates inserted in it, with the understanding which had mentioned as to any future alteration which might be found necessary, no one would have any just cause to complain. It appeared to him that it was very desirable that the Bill should be before the public in a complete form with as little delay as possible. He might mention that as yet so much of the Bill as related to the licensing of the sale of Tobacco had never been published, and the public had, therefore, enjoyed no opportunity

of saying any thing on the subject of that part of the Bill.

MR. FORBES said, he thought that this advantage would be gained by the publication of the Schedule with the rates now proposed, that persons would know as to what their opinion was called for, whereas, if we were to leave blanks for the figures in the Schedule, the sole object we had in view in publishing the Bill would be defeated. He saw no objection to the Schedule being passed with the figures inserted, on the understanding that no Honorable Member was pledged to the figures as they now stood, but that any Honorable Member, who might, after the republication of the Bill, think the rates too high, should have an opportunity of proposing a reduction of them. The object of republishing the Bill was to afford the dealers in Tobacco an opportunity of making any representation they pleased to the Council upon the mode in which it was proposed to tax them, and the rates of the proposed tax, and also to enable the officers of Government in the Mofussil, who were able from their position to give practically useful opinions, an opportunity of affording information to the Council on the subject now before them. But if we withheld all information of how we intended to deal with the very matter on which we professed to ask for the opinion of the public, it appeared to him that we should defeat our own end in republishing the Bill, and shut out the very information which it was our avowed object to obtain.

THE CHAIRMAN said, he did not understand that it was the intention of the Honorable Member (Sir Bartle Frere) to republish the Bill. Still he did not see why we should pledge ourselves that these were proper rates, when we did not know if they were so or not. Nor did he see the necessity for such haste. When we saw the papers, and had before us the information promised by the Honorable Member, we should then be in a position to come to a decision on the subject. For his own part he should prefer not voting in the dark. He should therefore move that

the consideration of this Schedule be postponed until after the information referred to by the Honorable Member were laid before the Council.

The Council then divided as follows, on the question for postponing the consideration of the Schedule :—

Ayes 2.
Mr. Scoones,
The Chairman.

Noes 5.
Mr. Erskine.
Mr. Forbes.
Mr. Harington.
Mr. Beadon.
Sir Bartle Frere.

So the Motion was negatived, and the Schedule was then put and agreed to.

Sections IX to XII were passed after verbal amendments.

Section XIII was passed as it stood.

SIR BARTLE FRERE moved the introduction of the following new Sections after Section XIII :—

"All Duties payable under this Act shall be collected by the Collector of Land Revenue or by such other person, not being an Officer of Police, as he shall appoint, subject to such general rules as shall be laid down by the local Government, for his guidance in that respect."

"Every person, who shall refuse to pay on demand made upon him or left at his usual place of business or residence any Duty which shall then be payable under this Act, shall be liable to pay a penalty not exceeding three times the amount of the Duty payable which shall be recoverable in the same manner as arrears of Duty under Act XXXII of 1860."

"No person assessed for the payment of any Duty under Act XXXII of 1860 shall be liable to pay any Duty under this Act, except for dealing in Tobacco."

"Every person, who shall collect any Duties under this Act, shall keep an account, specifying the amounts received by him, the names of the persons from whom the same shall be received, and the Art, Trade, or Dealing exercised by such persons, and shall annually or at such other times as shall be ordered by the Collector or by the local Government make a return thereof to the Collector."

"The Government may authorize the Collector to allow to any person employed in collecting Duties under this Act and for keeping the account mentioned in the foregoing Section, such commission not exceeding 3 per cent. on the amount collected, as the Collector may think fit."

The Sections were severally agreed to.

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

" All the provisions contained in Part XIX of Act XXXII of 1860, so far as they are applicable, shall have the same effect as if the same had been repeated and enacted in this Act."

Agreed to.

Section XIV was passed after an amendment.

SIR BARTLE FRERE moved to substitute the word " dealing " for the word " business " wherever it occurred.

Agreed to.

Section XV provided as follows :—

" Nothing in this Act shall be deemed to apply to any ryot or cultivator of land, or to any agricultural menial or village servant."

Amendments were proposed and carried, which made the Section run as follows :—

" Nothing in this Act shall be deemed to apply to any cultivator of land selling the produce of the land upon which he cultivates, so as to require any such person to pay a Duty or to take out a license under this Act."

Sections XVI to XVIII were passed as they stood.

Section XIX (the Interpretation Clause) was passed with the addition of the following :—

" The term ' wholesale dealer ' used in Schedule B of this Act means one who sells Tobacco in quantities of one maund or upwards in any one transaction. . .

" A retail dealer in Tobacco is one who sells Tobacco in quantities less than one maund.

" No wholesale dealer in Tobacco shall, in virtue of his wholesale license, be exempt from penalties for selling by retail without a retail license."

THE CHAIRMAN said, he proposed to add a Section to the effect that the Act should not continue in force for more than five years. When the Bill was introduced by the Right Honorable Gentleman, it was proposed that this should be a perpetual Act, and it was quite a different measure then. But it was now proposed to make it a supplemental Act to the Income Tax, the

duration of which had been limited to five years, and therefore this Bill should not be allowed to continue in force for a longer period.

MR. FORBES suggested that some provision should be made in the Section now proposed by the Honorable and learned Vice-President with regard to the Regulations which were to be repealed by Section I of the Bill; otherwise when this Act expired five years hence, those laws would again come into force. He did not think that the Mohturfa Tax in Madras and the House Tax in Tanjore, which were now about to be abolished, should be revived on the expiration of this Act.

THE CHAIRMAN entirely concurred in opinion as to the expediency of renewing those taxes, and moved the addition of the following Section :—

" No part of this Act, except Section I, shall continue in force beyond the 31st December 1865. Provided that this Act and the said Duties shall not then cease with respect to any assessment which ought to have been made before the said last mentioned day, but which shall not then have been made and completed; nor with respect to any of the said Duties which shall have been assessed, and shall then remain unpaid; nor with respect to any penalty before then incurred; nor with respect to any offence of which any person shall have been guilty before that day; nor shall the said Duties cease in any case where the assessments for the preceding year shall not have been completed before the said 31st day of December 1865. And that all the powers and provisions of this Act shall continue in force for making and completing all such assessments as afore-said, and for levying and recovering the Duties so assessed or to be assessed, and all arrears of such Duties and for the suing for, adjudging, and recovering any penalty which shall have been or may be incurred, and for the punishment of any offence, of which any person shall have been guilty before that day.

Agreed to.

The Preamble and Title were passed after amendments; and the Council having resumed its sitting, the Bill was reported.

SIR BARTLE FRERE then moved that the Bill be republished for general information, and that it be brought up for reconsideration after six weeks.

Agreed to.

The Council adjourned.

Saturday, September 8, 1860.

PRESENT :

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

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

SIR CHARLES JACKSON was duly sworn, and took his seat as a Legislative Councillor of the Council of India.

INCOME TAX.

THE CLERK presented a Petition to the Council from Merchants, Bankers, and other Inhabitants of Singapore praying for the exemption of the Straits Settlement from the Income Tax.

RECOVERY OF RENTS (BENGAL).

THE CLERK also presented a Petition of Ameer Mullick, praying for an alteration of Section XXX of Act X of 1859 (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal).

MR. SCONCE moved that the Petition be printed.

Agreed to.

INCOME TAX.

THE CLERK reported to the Council that he had received a communication from the Governor of the Straits Settlement, with an extract from the resolutions of a special Meeting of the Singapore Chamber of Commerce against the Income Tax.

ARTICLES OF WAR.

THE CLERK also reported that he had received a communication from the Military Department, forwarding

copies of a Bill to amend the Articles of War and of a note thereon.

FINANCES OF INDIA.

SIR BARTLE FRERE said, before entering on the Orders of the Day, he desired to say a few words in explanation of the circumstances under which a Bill had been brought into Parliament, for the purpose of enabling the Secretary of State in England to raise a loan of three millions on account of the Government of India. He (Sir Bartle Frere) wished to make this explanation, because an impression had got abroad that there was some inconsistency between this proceeding and the statement made by Mr. Wilson in February last. Mr. Wilson, in describing the financial state of the country at that time, and in anticipating what would be the effect of the measures proposed to be introduced in the next eighteen months, gave an estimate of the balances at the end of the financial year; and it had been supposed that what he then stated contained a sort of pledge that there should be no more loans raised for the current expenses of Government. He (Sir Bartle Frere) would, with the permission of the Council, read what Mr. Wilson said at that time. It would be found at page 147 of the proceedings of February last. Mr. Wilson said:—

"Sir, I have been asked, as I said before, what result we expect from our increased taxes and from our reduced expenditure. We hope in the course of time to make both ends meet; our aim of course is to produce an equilibrium; but I must remind you that some time, the greater part of a year, must elapse before our taxes can become fruitful, and before our reductions of expenditure and reformed systems can begin to tell. In the mean time, however, our balances in the exchequer are large, larger than they have been since 1853, and larger by upwards of six millions than on the 30th April last year. In India and at Home I expect our balances, on the 30th April next, will be about £10,600,000 against £13,308,000 last year, and therefore, even though our new taxes should be dilatory in coming in, and the reductions of expenditure some time before they are felt, I trust we may be able to go on without any further resort to borrowing, at least for a time; and I hope that, if we continue to be blessed with peace when those measures are carried into full effect, we may be saved the