

Saturday, 8th September, 1860

PROCEEDINGS

OF THE

**LEGISLATIVE COUNCIL OF
INDIA**

Vol. VI

(1860)

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

necessity of having resort so constantly to the money market, as unfortunately in the past has been the case."

Now, in considering how far Mr. Wilson's anticipations had been fulfilled, it was right to consider how far circumstances had occurred different from those which Mr. Wilson had a right to anticipate. In the first place, there had been a delay, owing to causes to which he (Sir Bartle Frere) need not now refer, of at least a quarter of a year in the new taxes being brought into effect. Similar causes had, to some extent, occasioned delay in carrying out reductions of expenditure in some departments. He trusted that, before many weeks passed, it would be in the power of the Government to publish some of the results which had attended the labors of the Military Finance Commission, and although one of the Members of that Commission, Colonel Jamieson, had been obliged to proceed to England, he had left so able a coadjutor, Colonel Balfour, that he (Sir Bartle Frere) had no doubt that the results of their labors would prove as valuable as had been anticipated when the Commission was first appointed. In all these matters it generally happened that the time occupied in obtaining a result was longer than was first anticipated. But in the case of the Finance Commission, he was sure it would not be found that there had been any dilatoriness either on the part of the Commission in offering suggestions, or of the Administrative Government in giving them effect. So also with regard to the Police. It was not until some time after Mr. Wilson spoke in February last that active measures were taken to bring this branch of the expenditure under searching enquiry. In this respect also he (Sir Bartle Frere) felt confident that the exertions of the Commission lately appointed, and whose first report to Government might shortly be expected, would fully justify the appointment of that able Commission. It was not to be expected that any reductions consequent on such measures could be carried out by a stroke of the pen. It

took a long time before the expenditure of a great Department like that of the Police, when it had once become excessive, could be pressed down within reasonable limits; and, as Mr. Wilson pointed out, the difficulty increased with every reduction effected. So also with regard to Railway expenditure, he (Sir Bartle Frere) believed that, when our late colleague spoke in February last, materials were not at hand for estimating the Railway expenditure for 1860-61, but the amount expended in the year 1859-60 was somewhere about five and a half millions, whereas the amount which the Railway Companies had estimated they would be able to spend in the current season 1860-61 was 7½ millions. In this branch of the expenditure, it was of course the interest of Government that there should, if possible, be no check so as to get the return expected from the outlay as soon as possible. It appeared from a Parliamentary Return of the 12th of July 1860, which he held in his hand, that in favor of some Railways there would be a considerable surplus of paid-up capital, while there were other undertakings with respect to which it appeared that the balance in hand to meet current expenses would be inconveniently small. In such a case as that, the obvious course was to require the shareholders to pay up any amount of capital which they might be under engagement to do. But it was, of course, very much dependent upon the state of the money market at the time whether it would be advisable to force them to do this, or whether it would not be better to await some more favorable time to let them go into the money market. He hoped it would not be necessary for any Railways to look to Government for assistance in that way; but, looking to the state of the balances, and to the estimate of expenditure for the current year so much in excess of the year preceding, it would be necessary to have a considerable reserve at hand to meet possible demands, and this was a contingency which could not have been foreseen in February last.

There was another element which Mr. Wilson did not see at the time he spoke, and that was the state of the seasons in Madras and the North-Western Provinces. It was impossible to say at this time what their state would ultimately prove to be. There was ground for hope that it would improve, but there was still reason to fear that it might not be so, and this uncertainty of course affected trade generally. Another element of uncertainty, arising from the state of political affairs in Europe, must be taken into consideration. All these things of course affected the amount of balances which it was desirable to have in hand. When the seasons were fair and the political horizon was clear, it might be possible to get on with a smaller balance in the Treasury than it would be prudent to reserve when the seasons were unfavorable, and the political horizon at all overclouded, and when there was a general contraction of trade. He simply adverted to these facts, not as showing that Mr. Wilson's calculations required any alteration, but as proving simply this, that the amount of balances as estimated by him was that which he might reasonably have trusted when everything was going on as it then was, and as he had a right to hope it might continue. It would be seen, by referring to what Mr. Wilson said, that in April 1859 the balances in India and at Home amounted to £13,398,000, and he expected the balances of the following year, that is, in April last, to amount to £19,600,000; and under the then existing circumstances, beginning the year with this amount of balance in hand, Mr. Wilson might reasonably hope that, notwithstanding the serious difference between the current income and expenditure which he then described, it might be possible to get through the year 1860-61 without borrowing, though the balance in hand at the end of the financial year, when the balances were naturally lowest, might fall below the sum at which they stood at the end of 1858-59. But under different circumstances it would be prudent to have a much larger amount

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of balance in hand. There was a difference of opinion as to the amount of balance which it was prudent or necessary to have in the hands of the Government of India. Some authorities thought that twelve or fourteen millions were little enough; some that we might safely go as low as ten millions. But even under such circumstances as Mr. Wilson had anticipated, we should have been running very close to the lowest amount of balance which it would be prudent to retain by the end of the financial year 1860-61. Supposing, however, that it was found necessary to borrow, how was the Treasury to be replenished? It was obviously expedient that the Secretary of State should obtain the necessary power for raising a loan in England. He (Sir Bartle Frere) believed that these were the circumstances under which the Secretary of State had taken this power, and he (Sir Bartle Frere) trusted that what he had stated to the Council would be sufficient to show that Mr. Wilson was not over sanguine in the estimate which he formed in February last, and that there was nothing in the proceeding of the Secretary of State inconsistent in the least degree with the hope which Mr. Wilson then held out.

Mr. SCONCE said, he did not enter the Council this morning with the expectation of troubling them on a question of finance, nor was it his purpose to take any exception to the general explanation just made to the Council by the Honorable Member (Sir Bartle Frere). But there was one part of that statement which was wholly unexpected by him (Mr. Sconce). He alluded to that part of the statement which grounded the necessity for opening the new loan on the insufficient means supplied by the Railway Companies for carrying on their own works. He was certainly not prepared, from any of the explanations which had been received from the lamented Mr. Wilson who had so recently led the Financial discussions in this Council, that, in consequence of the Railway Companies being unable to supply the requisite funds for carrying on their works, the Government

would be obliged to incur the risk of making advances to them for the purpose. As he understood, 5½ millions was to have been the limit, but it now appeared that the actual expenditure had been 7¼ millions. He had not hitherto been informed in this Council that these advances formed any basis of account in the Financial statements of the Government. Some months ago he had alluded in the Council to the obscure and unsatisfactory information possessed by them with respect to these Railway accounts. It seemed to him that, if the Council were to give their assent to or opinion upon any advances to Railways, it was very necessary that we should have thorough information as to the mode in which the Railway accounts were kept both here and in England; and whether the disbursements of each Railway Company were in advance of its receipts or the receipts in advance of the disbursements. He understood that the money received by the Railway Companies at home was paid into the hands of the Secretary of State and used for public purposes in England, while a corresponding credit was given to the Railway Companies here to meet their disbursements. He would wish to know therefore whether virtually there was a surplus or a deficit in the Treasuries of the various Companies. But whatever might be the mode in which the accounts were kept, and whatever the results of those accounts, he thought we should have at the earliest possible opportunity distinct cash accounts, so that we might know whether the charges were in advance of the receipts or the receipts in advance of the charges. His Honorable friend opposite had not told us what were the Companies whose bankrupt state was disclosed by the returns to which he had referred. We ought to know the Companies to which allusion was made, and if we were at all to give our assent to the financial measures of Government that arose from a deficit in Railway supplies, we should have an opportunity of expressing our opinion whether it was expedient to adopt what he believed to be the entirely new proposal to

allow the Public Treasury to make advances to the Railway Companies which should themselves have failed to find the necessary funds. One explanation given by the Honorable Member was that it would be injurious to force the Railway Companies into the money market at an unreasonable time, and that therefore the Secretary of State was to raise a loan in order to give those Companies the assistance that they needed. In either case however a resort was had to the money market. He could not say, nor he apprehended could his Honorable friend at this time say, what arguments the Secretary of State might have used to support the application made by him to Parliament for a new loan. It might be that the inability of the Railway Companies to provide the funds for their own works might have been adduced by the Secretary of State among the reasons urged by him, and possibly Parliament might have thought fit to accept that explanation, but for himself, he though he might be wrong, he was not prepared to sanction so unexpected a proposition.

SIR BARTLE FRERE said, he thought the Honorable Gentleman would find all the information which he required in the Parliamentary paper to which he had already referred of the 12th July last, and would find there not only the names of all the guaranteed Railway Companies, but the amounts at which their balances stood at the end of the financial year. He (Sir Bartle Frere) would observe, however, that he was not aware at present that the necessity to which he had alluded as possible had arisen, and that it was very possible it never might arise, but it was one for which it would not be prudent to be unprepared. With regard to ordinary Joint Stock Companies, it was of course the natural result that they must either provide the funds required for their works or stop them; but with regard to guaranteed Companies the case was different. Government had guaranteed 5 per cent interest on the capital expended, and in the event of such a Company, after laying out large amounts, being unable to raise any sum

required to complete their undertaking, it was impossible for the Government to sit still and say that they would allow them to draw 5 per cent. interest for doing nothing, while their works were suspended. He did not mean to say in what way it might be necessary for Government to come forward, but he only meant to say that it would be impossible for Government to treat such a case of a Company which had been guaranteed as they would that of a Company to which no guarantee had been given. Though the present estimates were not complete and showed only a comparatively small possible deficit on the part of some Companies, even that would be a contingency which it would be unwise to neglect in estimating the balances required for the current year's service.

THE VICE-PRESIDENT wished to ask the Honorable Member if there was not some Clause in the contracts entered into between the Government and the Railway Companies, which compelled the latter within a certain time to provide the capital with which the works were to be executed, the penalty for non-fulfilment being the forfeiture to Government of the Railway and its works.

SIR BARTLE FRERE said, the powers were ample to the Government to compel the Companies to provide the capital to go on with the works or to take the works into their own hands, but that made little difference in the bearing of the question on the Government. Supposing the Government were to interfere in such a case and to take the Railway into their own hands for the purpose of completing and working it on their own account, that would only increase the liabilities of the Government.

MR. SCONCE asked if any Company had expressed their inability to go on, and called on Government to provide the required funds?

SIR BARTLE FRERE said, he was not aware of such a case. After providing for an expenditure in the current season of £540,000, they were still considerably within the limit which the Railway Companies ex-

pected to be able to spend, which, as he had stated, amounted to £781,000.

THE VICE PRESIDENT said, he understood the Honorable Member to say that the Secretary of State was making arrangements in England for raising a loan in order to assist Railway Companies with funds for carrying on their works, and to prevent them from going into the money market at an unfavorable time. Now he (the Vice-President) thought it would be very unwise on the part of Government, if they had the power of forfeiting the Railway, to hold out to the Railway Companies any hope that Government would make the necessary advances if the latter were unable to raise the required capital for carrying on the works. The proper course for Government to pursue was to forfeit the Railway in terms of the contract, if the Railway Company would not raise the money they were bound to do. It did not follow that, if the Government forfeited the Railway, they ought to go on with the works on their own account. They might make them over to others who would be glad enough to carry them on. He thought it very unsafe for Government to hold out any inducement of the kind referred to, to the Railway Companies. As remarked by the Honorable Member for Bengal, the Secretary of State would have to go into the money market at an unfavorable time just as much as the Railway Companies.

SIR BARTLE FRERE said, he was very much obliged to the Honorable and learned Vice-President for giving him the opportunity of explaining that it was not the intention of Government to pledge itself as to the course to be pursued in the event of the case he had anticipated arising. His (Sir Bartle Frere's) desire was to point out that, at the time Mr. Wilson spoke, he had not and could not have this information as to the amount that Government might be asked to provide for Railway expenditure, and as a part of the liability he pointed out that some Companies might be behind hand in providing the capital required to complete their undertakings, and that this was a contingency for which

Government must be prepared. But he wished to state nothing which could possibly be construed as pledging Government to advance money to Railway Companies in that condition. He stated the demands of the Railway expenditure as forming a very important element in the consideration of the sum which must be kept in hand, and with every hope that such a contingency would not arise, it was one that it would not be prudent to be unprepared for. He was very much obliged to the Honorable and learned Vice-President and to the Honorable Member for Bengal for having enabled him to correct what would otherwise have been a very serious misapprehension of what he had said.

EMIGRATION (FRENCH COLONIES).

MR. BEADON said that, pursuant to the notice which he gave last Saturday, he rose to move the first reading of a Bill "to authorize and regulate the Emigration of Native Laborers to the French Colonies." The immediate occasion for this measure was explained in a Despatch from the Secretary of State of the 22nd June last, which he would read to the Council. It was as follows:—

TO HIS EXCELLENCY THE RIGHT HON'BLE THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

MY LORD,—Since the last correspondence with your Government on the subject of Coolie Emigration from India to the French Colonies, Her Majesty's Government have been in communication from time to time with the Government of the Emperor of the French as to the terms and conditions on which such emigration should be conducted, and I now forward for your information, a copy of the Convention which has been agreed to for the purpose of giving effect to the proposed scheme of emigration.

The accompanying letter from Lord John Russell to my address will show how it is that the signature of the Convention on behalf of Her Majesty's Government must be delayed till your Government shall have been duly empowered by the Indian Legislature to bring the scheme into operation, and as it is important that the Convention should be signed at the earliest possible period, I have to request that a Bill may without delay be introduced into the Legislative Council, conferring the requisite authority on your Government and the earliest intimation of its being passed into law may be made to me.

You will not fail to include in the Bill the proviso specified in the concluding passage of the letter of Lord John Russell.

I have, &c.,
C. WOOD.

The letter from Lord John Russell, to which allusion was made in that Despatch was the following. After referring to his correspondence with Lord Cowley, Lord John Russell observed that:—

"The French Government considered that the Emperor could not publish his proposed declaration for putting an end to the Regis Contract as long as any uncertainty prevailed with respect to the course which might be taken by the Legislative Council of India, whose consent it now appears is required to enable the proposed Convention for the emigration of Indian Coolies to the French Colonies to be carried into effect.

It is impossible to deny that the objection of the French Government is well founded. But, on the other hand, the publication of the declaration is essential to the signature of the Convention.

It would be very much to be regretted that an arrangement which is so well calculated to put an end to a revival of the African Slave Trade, however the operations may in terms be disguised, should fall through on what I trust is little more than a point of form, and I therefore would suggest to you that the Legislative Council of India should at once be moved to pass a law to carry into effect the proposed Convention, with a proviso that the law is not to come into operation until after the conclusion of the Convention, and until the time at which the Convention itself is to take effect shall have arrived."

The correspondence between Lord John Russell and Lord Cowley, which he (Mr. Beadon) need not read at length, referred to the negotiations on the subject of permitting the emigration of laborers from India to the French Colonies. With the same Despatch was forwarded the draft of a general Convention which had been agreed upon, but which would not be signed until the Legislative Council should approve of the terms proposed, and a law should be passed to give effect to them. There was a second Despatch from the Secretary of State, dated the 24th July, founded on a representation of the great want of laborers in the Island of Bourbon, and directing that authority might be given for the commencement of emigra-

tion thither as soon as the Act should be passed without waiting for the formal completion of the Convention. Immediately following upon that came a third Despatch from the Secretary of State, forwarding a copy of a special Convention relating to emigration to Bourbon alone, which the French Government had concluded with Her Majesty's Government, on the understanding that an Act would be passed by this Legislature carrying it into effect.

He (Mr. Beadon) thought that there were grave objections to allowing emigration to Bourbon or any other French Colony, without the security for the proper treatment of the emigrants that the execution of a formal Convention would afford; but as a special Convention for Bourbon had now been signed, there would be no objection, if the Act were passed, to give it immediate effect as regards emigration to that Colony.

The question of authorizing the emigration of Coolies to the French Colonies was first brought to notice in 1851 by the French Authorities at Mauritius, who found that the supply of labor at that Colony was quite inadequate to its wants, and asked the Government of India to allow the emigration to that Colony of Native Laborers from India on the same terms as to our Colonies, promising to make the same provision for the protection of the emigrants as existed in Mauritius. The proposition was in the first instance discouraged because, although the provisions which the French Authorities proposed to make, seemed in all respects sufficient, still it was felt that there was no security that the arrangements would be carried out as promised, and that the Government of India had no authority to enforce their fulfilment. In the year 1852, however, a decree was passed by the French Government by which considerable improvements were effected in the arrangements made for the protection of the Coolies at Bourbon, and an application was made to the British Government to legalize the emigration of Native laborers from British India to the Colony. Thereupon a reference was made to the

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Government of India asking its opinion as to whether emigration might be allowed to the French Colonies. Enquiries were made and the opinions of the local Governments were called for and received by the Government of India. At about the same time a gentleman of considerable scientific attainments, and well known to Honorable Members of this Council, Dr. Mouat, happening to go down to Bourbon, was desired by the Government of Bengal to make enquiries and report whether the decree of the French Government was really and *bono fide* carried out. In May 1852 Dr. Mouat submitted an elaborate report in which he gave upon the whole a very favorable view of the condition of the Indian laborers then on the Island, and recommended that their emigration thither from British Indian Ports should be allowed. With the permission of the Council, he (Mr. Beadon) would read a few extracts from the report so as to satisfy the Council that there was reasonable ground for expecting that the provisions of the proposed law, if passed, would be carried into effect. Speaking of the Decree, Dr. Mouat said—

“I was told by those well acquainted with the subject that the provisions of this Act are the basis of the measures at present in force regarding the Coolies, and that all subsequent modifications have been entirely in favor of the laborers, so anxious are the authorities of the Colony to protect and encourage them.”

In illustration of this, Dr. Mouat went on to say—

“The following is, as far as I have been able to ascertain, the general plan of proceeding now adopted.

The Coolies are collected by a special agent at the expense of a ship-owner, and are brought before the French authorities at Pondicherry or Karrical, by whom they are separately examined as to their transmission to Bourbon with their own free will and consent.

The engagement which each enters into to work in Bourbon for three, four, or five years is entered on duplicate papers.

The conditions of salary, which vary according to the supposed quality, skill, and pretensions of the individual, with his scale of rations, are all inscribed.

The act of engagement also indicates the advances which are made to the Coolies

before their departure, as well as the legal deductions authorised to enable them to return to India or to subsist on the expiration of their engagement, should they have been imprudent or careless while in employ. These sums are deposited in the custody of the special Syndic or Immigrant Agent. As a general rule their wages are calculated to begin from the first fortnight of their arrival in the Colony.

The Controller invariably covenants to furnish the Coolies with food and Medical attendance in sickness, however protracted it may be. The daily wages are, however, not paid for such periods as the laborer is unable to work.

He also covenants, in the event of the Coolie running away, or failing to fulfil his part of the contract from vagrancy, to deduct two days' wages for each day of an unauthorized absence without leave.

If a Coolie is convicted by a legal tribunal and sentenced to fine for civil offences, the amount is deducted from his savings, the proprietor of the Coolie being compelled to advance the sum in anticipation, whatever may be its amount. The expense of punishing Coolies is only borne by the state in Criminal cases.

On boardship each Coolie is allowed a certain amount of space, and he is victualled according to a fixed scale; I am not acquainted with the particulars of those provisions. In regard to the former I conjecture the allowance of space to be about one-third less than that sanctioned for the same object from the Port of Calcutta, but this is a mere surmise. I have no exact data on the subject beyond having been informed, and possibly erroneously, that vessels of 500 and 600 tons from Pondicherry, carry as many Coolies as ships of 800 or 900 tons leaving Calcutta.

Immediately on the arrival of a Cooly ship in the Roadstead of St. Denis, its sanitary condition is enquired into before the laborers are disembarked.

In the event of any contagious disorder existing on board, they are sent to perform quarantine at a Lazaretto in the ravine of St. Jacques.

When they are disembarked at St. Denis itself, they are sent to perform a simple quarantine in a very large establishment situated at the foot of the mountains, at the distance of about two miles from the Town.

There or at the houses of certain Medical Officers selected by the Government they are all vaccinated.

During this time their written contracts have been presented to and examined by the proper authorities and made over to the Syndic.

As soon they are released from quarantine the Syndic identifies each of them according to the descriptive roll furnished. The Coolie is required to state his age, name, and caste, his father's name and the place of his birth, and any particular marks of identification present in the individual are noted.

The whole of these particulars are copied from the general Register into a book con-

taining the copy of his engagement, and of the rules and laws relating to him, and this book is made over to the Coolie himself to enable him at all times to know his duty and obligations, and claim the fulfilment of all rights to which he is entitled. The laborer is compelled to carry this with him wherever he goes as a permit of residence and species of ticket of leave, as well as to afford him protection from arrest or molestation.

The stipulated engagement entered into with the ship-owner at Pondicherry arms him with authority to transfer his right and title to the landed proprietor in Bourbon requiring laborers, the terms of cession being a matter of personal bargain between them. The transfer requires subsequently to be legalized by the Syndic who enters it in the general Register, and inscribes it in the Coolie's book also.

It is this circumstance, and the fluctuations in the price of labor that raises or depresses the value of the contracts, which has given rise to the erroneous impression in India of the Coolies being sold as slaves.

The actual and average prices of the purchase of the contracts of different gangs of Coolies are published in the local journals, without a statement of the circumstances in which the sales have been effected, because these are well known on the spot. Hence the misapprehension at a distance.

The working hours of the Coolies are from six in the morning to six in the evening with two hours interval for bathing, eating, and rest. Their food is cooked by one of their own caste, who has no other occupation.

No corporal punishment of any description is allowed to be inflicted by the landholders on the Coolies. All offences of every description require to be reported to a Justice of the Peace, who can inflict punishment according to the gravity of the offence, to the extent of fifteen days' imprisonment with labor on the roads and in the public works. If they turn out incorrigible vagabonds, the ultimate punishment is transportation to the Coromandel Coast.

In Criminal matters they are liable to the provisions of the Code Napoleon.

My impression certainly is that they are treated with the greatest kindness and consideration by the Government, that their punishments are lighter than those of the free Negro population for the same offences, probably because they are physically less capable of bearing up against harsh treatment, and that every means is taken to render them contented with their lot, and to induce them to settle on the Island.

The number of women who accompany the Coolies is about in the proportion of ten per cent. As in the Mauritius, they seemed to me to be of a very low order, and are probably seldom, if ever, the wives of the men they accompany.

I heard the number of Indian Laborers in the Island very variously estimated. Some numbered them as high as 30,000, others rated them lower than 20,000. Between 23 and

24,000 is, I believe, not far from the actual number at present in the Colony. At least 50,000 are necessary to supply the full wants of the Island."

In a subsequent part of his Report Dr. Mouat observed :—

"There can be no doubt, I think, that India possesses a vast surplus population, more than the West India Islands and those in the Southern Division of the Indian Ocean can possibly absorb as laborers, and that, when carefully managed, as I know them from personal observation to be both in Bourbon and the Mauritius, they are far better off than in their own homes.

They leave India full of prejudices, utterly ignorant, and as low in the scale of humanity as it is possible to imagine such beings to be.

They acquire in their transmarine experience habits of thought and independence, a knowledge of improved means of cultivation, a taste for a higher order of amusements, a greater pride of personal appearance, and an approach to manliness of character, rarely if ever seen in the same class in their native villages. They are loosed from the trammels of caste and abject submission to priest-craft which renders them so unprofitable a race at home. They are removed from the blighting influence and extortionate exaction of Native Zemindars and other depressing agencies, and protected almost to an injurious extent in the exaction of their rights.

The spread of such men throughout the villages of Hindoostan cannot fail to be beneficial, and in my humble estimation ought to be encouraged to the utmost limit of which it is susceptible.

They bring back wealth, vigor of body, and such enlargement of mind as can be acquired in their sphere of life.

I did not perceive that the French Government is making any attempt to educate the children of the Coolies born in Bourbon. There was in the Island at the time of my visit a young priest, who had formerly been a Student of the Medical College in Calcutta, of the Boida caste, then named Sreenauth Sen. He was a young man of powerful intellect and irreproachable character, and was converted to Christianity by the Nuns at that time attached to the Fever Hospital. He is said now to be entirely devoted to ministering to the Bourbon Coolies."

That Report came before the Government of India together with the reports of all the local Governments, among which was one from the then Governor of Bengal, Lord Dalhousie, who was strongly in favor of allowing the proposed emigration to take place. The Government of India too was disposed to give the scheme its favor and support, but there were some parts of the decree to which objection was

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taken as not providing sufficiently for the protection of the Coolies. The following were the points on which objection was made :—

- (1). Insufficient space on boardship.
- (2). No provision for a Surgeon on boardship.
- (3). Inadequate provision as to clothing on boardship.
- (4). The same as to water and provisions.
- (5). Objection to allowing emigration to take place from the French Ports in India.
- (6). Objection to allow emigration to the French Colonies in the West Indies or to Guiana.
- (7). If emigration were allowed from French Ports, absence of any arrangement for a British Protector at such Ports.

Now it would be found that the Convention provided for all those points except one, and that was the provision of a proper supply of water on boardship. It was a most important and necessary provision, and he (Mr. Beaulon) presumed it was omitted in the Convention simply because it was thought that it would be supplied for in the Act of the Indian Legislature.

The reports in question were submitted to the Court of Directors, and by them made over to Her Majesty's Government, and since then the matter had formed the subject of negotiation between the French and English Governments. In the meantime the French Government not being able to obtain from India the amount of labor required in Bourbon and their other Colonies, had resorted to a system of what they called free, but what he (Mr. Beaulon) would be disposed to call forced labor, which had much of the character of a Slave Trade carried on between those Colonies and the Coast of Africa. A contract was entered into between the French Government and certain Merchants at Marseilles, whereby the latter agreed and were empowered to transport a large number of laborers from Africa to the French Colonies: under this contract ships were chartered to go and collect Negroes on the African Coast. These were then conveyed to Zanzibar or some other Port, and there required to declare before

some authority that they engaged to proceed to Bourbon of their own free will. It was very easy to see that a traffic of this kind must directly give rise to most of the evils of a Slave Trade. Accordingly kidnapping was revived, and atrocities of the worst description were committed by slave hunters and others in pursuit of their object. This state of things had been represented by the Government of Her Majesty to the French Government, and some restriction was, in consequence, placed on the traffic. But the final result of the remonstrances of the British Government had been the present Convention, under which, if duly carried out, it might be expected that this horrible traffic might be put a stop to by allowing the emigration of Native Laborers from India. It was proposed that the emigration should be sanctioned under proper regulations which had already been laid down in the Convention and were supplemented in the Bill, and by which he (Mr. Beadon) felt confident that the object aimed at would be fully attained. The Coolies would be properly protected in this country, before they were sent on boardship, as well as when on boardship. Their interests would be taken care of in the Colony, and they would be permitted to return to India after five years' of industrial residence, a free passage being given to them.

There was no reason to apprehend that free laborers once taken to Bourbon had ever been ill-treated there, or reduced to slavery; on the contrary, there was everything to show that they were well treated there. The only fear was that they might be kidnapped and taken to the Colony under a false representation of what they were to expect there, and that they might be ill-treated on the voyage, and not permitted to return to their country.

As regards the Government of India, it was evident that it would not under this Convention have the same security for the good treatment of the Coolies in the French Colonies as our own Colonies, and the difference was this. With regard to our own Colonies, no emigration was allowed to take place

to any Colony unless the Government was satisfied that laws were passed in that Colony which would afford security for the good treatment of the Coolies, whereas in the case of emigrants to French Colonies there was nothing to rely upon but this Convention. In one Clause of the Convention, it was said that the laborers would be dealt with according to the laws passed for Martinique; but as to what the laws of Martinique on this behalf were, we had no information. But this condition seemed to have satisfied Her Majesty's Government, and we must take it on trust that Her Majesty's Government had the means of practically enforcing it through the agency of British Consuls.

The principle of the Bill was to legalize the terms of the Convention and to apply to the French Colonies all such provisions of the law relating to emigration to our Colonies as were applicable. The Convention provided explicitly that the Coolies during their residence in any French Colony should be under the protection of the British Consular Authorities, and as the legalization of free emigration would induce the French Government to put an entire stop to the Slave Trade, and at the same time open a field for the profitable employment of the laboring population of India, he (Mr. Beadon) thought that the Council might proceed to legislate in the matter and to remove all local impediment, as if they had the same security for the good treatment of the laborers in the French Colonies as in our own. No one would deny, as an abstract proposition, that the laborers of India had a right to carry their labor to the best market, and that the Government should interfere only to guard them against misrepresentation and fraud in their engagements here, to protect them on the voyage, and to ensure them the enjoyment of their just rights during the term of their residence in a Foreign Country. He (Mr. Beadon) thought it particularly desirable that the proposed law should be passed at the present time, as it might afford employment for many starving people, and relieve the sufferings which had

arisen, and were still further threatened in consequence of the drought and scarcity with which the North-Western Provinces had been visited during the past season.

With these observations, he begged to move the first reading of the Bill.

SIR BARTLE FRERE seconded the Motion, which was put and carried, and the Bill was read a first time.

MR. BEADON then gave notice that he would next Saturday move the second reading of the Bill.

VACATIONS (CIVIL COURTS.)

MR. SCONCE moved the second reading of the Bill "to amend the law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal."

The Motion was carried and the Bill read a second time.

STAMP DUTIES.

MR. BEADON moved the second reading of the Bill "to amend Act XXXVI of 1860 (to consolidate and amend the law relating to Stamp Duties)" and said that he would reserve any further observations that he had to make upon it until the Council went into Committee on the Bill.

The Motion was carried and the Bill read a second time.

MR. BEADON moved that the Standing Orders be suspended to enable him to carry the Bill through its remaining stages forthwith.

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

MR. BEADON moved that the Council resolve itself into a Committee on the Bill.

Agreed to.

Section I was passed after amendments.

Section II proposed to authorize the use of One Anna Postage Stamps in certain cases.

MR. BEADON proposed the omission of this Section, and said that he had ascertained since the last meeting that there would be a sufficient number of One Anna adhesive Stamps.

Agreed to.

Mr. Beadon

Sections III to V were severally passed after amendments.

MR. BEADON proposed the introduction of the following new Section, the necessity for which arose out of a clerical error in the present Act :

"Sections XXI and XXII of Act XXXVI of 1860 are repealed, and the following new Sections shall be read as Sections XXI and XXII of the said Act :—

' XXI. Every vendor of Stamps shall write on the back of each Stamp which he sells, except adhesive Stamps and 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, 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.'

' XXII. Any vendor who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the foregoing Section shall be punished by a fine not exceeding five hundred Rupees, or imprisonment not exceeding three months, or both."

Agreed to.

MR. BEADON moved that the following new Section be introduced after the above :—

"Article 28 of Schedule A of the said Act is repealed and the following words shall be read as Article 28 of the said Schedule of the said Act :—

<p>' 28 Engagements to cultivate, produce, provide, or deliver any article of commerce in consideration of advance made.</p>	}	<p>Shall be charged on the amount advanced at the rate of Bonds."</p>
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Agreed to.

MR. BEADON said, he had no other amendments to propose, but he thought it right to bring to the notice of the Committee that the Bengal Chamber of Commerce had suggested an amendment in Article 44, Schedule A. Now he apprehended that, under the Act as it stood, a Policy of Insurance was liable to be stamped eight annas; and, if made in duplicate, each copy was liable to be stamped eight annas. What the Chamber of Commerce required was that the Duty on each of two copies should be four annas, and that the triplicate if executed, should be exempt. He (Mr. Beadon) thought however, that the Duty on Policies of Insurance,

which was almost the lowest in the whole Schedule, and which was the same as under the old law, should continue unaltered.

Sections VI and VII and the Preamble and Title were passed as they stood, and the Council having resumed its sitting, the Bill was reported.

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

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

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

Agreed to.

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 Bill.

The CHAIRMAN asked permission to go back to Section 3 Chapter V (punishment for abetment if the act abetted be committed in consequence, and where no express provision was made for its punishment), and proposed a trifling amendment which was carried.

Chapter VII (of offences relating to the Army and Navy) being read by the Chairman—

Mr. BEADON asked if this was not one of the Chapters which referred to flogging.

The CHAIRMAN explained that the course he proposed to pursue with respect to flogging was this. As flogging was not one of the punishments provided for by the Code as published, but had since the year 1857 been inserted in the Code as a new punishment, he did not think that the Council could pass the Code with the retention of flogging, without a republication of the Code; and this could not conveniently be done if the Code was to come into operation from the 1st of May next, as time was necessary to be allowed for the Code being properly translated and studied. He intended therefore to propose that

the Code should stand as it was without the punishment of flogging, and to call for the opinions of the local Officers respecting the expediency or otherwise of its adoption.

Mr. SCONCE said, it might be a ground for postponing the consideration of the question that, at Bombay, Brahmias were exempted from the punishment of flogging.

Mr. ERSKIN said, he believed that the statement just made by the Honorable Member for Bengal required some correction. It was true that one Section of the Bombay Code provided that persons exempted by a prior Section of that Code from imprisonment with hard labor should not be sentenced to flogging; but at the same time that prior Section exempted Brahmias from hard labor only in cases which were not so atrocious as to prevent the infliction of such a punishment on such persons in those cases from shocking the sentiments of the native community. He believed he was correct in saying that the limitation as to flogging had been practically enforced only in the same restricted sense, that is to say in regard to offences by Brahmias which were not grave enough to prevent the feelings of the community from being generally shocked by the infliction of that punishment.

Mr. BEADON said, with regard to the punishment of flogging, he thought that as the Committee had already affirmed it as a general principle that flogging was to be one of the punishments under the Code, the better course would be not to undo what had already been done, but to postpone the consideration of the question as to the offences to which flogging was applicable, until the opinions of the local Officers were received.

The CHAIRMAN said, only two courses were open to us, namely, either to provide to what offences flogging ought to be applied and republish the Bill, or to omit flogging from the Code and provide for it by a separate enactment after consulting the local Officers on the subject. For the reasons already given by him, he inclined in favor of the latter course.

SIR BARTLE FRERE said that he would much prefer the last course suggested by the Honorable and learned Vice-President. It had been supposed that he (Sir Bartle Frere) and other gentlemen who objected to the omission of this punishment from the Code did so on the grounds that they had approved of the punishment in itself and desired to retain it permanently as a general punishment. Nothing could be farther from the truth. He was convinced he spoke the sentiments of every one in that Council when he said he was most anxious to see the punishment at once entirely and for ever abolished. His objection to its immediate abolition rested mainly on his belief that to many classes and in many parts of the country imprisonment or any other punishment which could be substituted for flogging was in reality the more inhuman of the two. There were vast numbers of wild tribes—men who never lived within four walls and who pined and died when removed from their Native jungles or deserts. To these men imprisonment for even a very short period and with the lightest possible discipline and best treatment was simply a sentence of lingering but certain death. His own observation on this subject was confined to the wild tribes of Western India; and when he spoke last on the subject, and stated his belief that the same reasoning would apply to the jungle tribes in this Presidency, his Honorable friend the Member for Bengal expressed his doubt of the fact. At that time his (Sir Bartle Frere's) belief as regarded Bengal was founded on a remark regarding the mortality in the Alipore jail. Since then he had referred to that most able and experienced Officer, Dr. Mout, who confirmed, on the most unmistakable evidence, his (Sir Bartle Frere's) previous impression. There were hundreds of thousands of savages and uncivilized tribes on all the borders of Bengal, in Beerbhoom and Bhugulpoor, in Assam and on the Burmese frontier, among whom the mortality of prisoners shut up in jail was enormous, as compared with the mortality of other classes. It was the simple confinement that killed

them, and no device had yet been found by which the mortality of these savages when shut up in prison could be kept within such limits as were usual with other classes. Now what he felt was that, however barbarous the punishment of flogging, the imprisonment of such men, when you knew that death would be the probable result, was far more cruel and unjustifiable. But while for cases such as these and a few others he (Sir Bartle Frere) thought that flogging must necessarily be retained as a punishment for many years to come, he would be glad to see it omitted from a Code such as that on which they were engaged, which was intended to be a complete, scientific, and permanent work, and a standard of general penal jurisprudence for this time and this country. Believing that you could not at present dispense with flogging without incurring the necessity for resort to expedients which, though they appeared more humane, were really more cruel to vast masses of our Indian subjects, he would be glad to see the punishment omitted from the Code as a barbarous and obsolete punishment, and placed in an Act by itself as if it were only tolerated as a temporary and exceptional expedient applicable to particular classes and conditions. The course therefore which seemed to him best was that suggested by the Honorable and learned Vice-President, to refer the subject for the consideration and report of the local authorities, and to permit by separate enactment flogging in those cases only where the reports might show it was necessary to retain it for such reasons as he had described.

THE CHAIRMAN said, the Code was not to come into force until the 1st of May next, and if we introduced flogging into the Code as a new punishment, it would be necessary to republish the Code. He did not think it right, after objections had been made by some Members of this Council, that we should pass the Code by the votes of a majority of the Council, without republishing the Code and calling for the opinions of the local Officers. He therefore proposed to pass this Code without that punish-

ment, and to ask the Governor-General in Council to call for the opinions of the local Officers, and if those Officers or the majority of them should be in favor of the punishment of flogging, to provide for it by a separate measure. The difficulty of republishing the Code was this, that it was absolutely necessary to allow time for the Code being translated and studied before it became law, and if it was to be republished, he did not think that it could be brought into force from the 1st of May; whereas it might be dealt with as a separate measure, to take effect from the same time with the Code.

MR. BEADON said, he quite agreed with the Honorable and learned Chairman as to what was required to be done, though he differed from him as to the mode of doing it. It struck him that the most advisable course was to provide for flogging by a general Clause, and leave the consideration of that Clause until the end of the Bill. In the meantime the Governor-General in Council could obtain the opinions of the local Officers, and then we could determine for what, if any, crimes the punishment of flogging was applicable.

THE CHAIRMAN said, his own opinion was that flogging was not required so far as the Supreme Courts were concerned. They already had the power to inflict that punishment under the 9th Geo. IV, c. 74. He did not recollect, ever since he had been in India, of its having been inflicted in the Supreme Court, and he did not think that it was a punishment which he should ever inflict. With regard to the Mofussil, however, he believed the Officers were generally in favor of flogging as a punishment, and he had no objection therefore to its adoption, as regards certain offences.

MR. SCONCE said, he was not against flogging altogether, but it was a matter which required some deliberation as to the extent to which it should be allowed. He referred to a statement which recently appeared in the public prints, as to the extent to which flogging was carried in Oude,

and which seemed to justify the apprehensions he expressed sometime ago, that men became callous to the infliction of corporal punishment and could not hold their hands when once commenced. It was stated in the newspaper to which he referred, that flogging was imposed to the extent of hundred stripes which were suffered by successive instalments when the prisoner had recovered from the effects of the injury inflicted.

MR. FORBES said, with reference to the suggestion of the Honorable Member opposite (Mr. Beadon) that a decision on the present question should be postponed, and that the opinions of all local Officers upon it should be obtained by a reference to each local Government, as had been done when the question of the introduction of Oaths into the Civil Procedure Code was under consideration, he (Mr. Forbes) wished to ask that Honorable Gentleman within what time he anticipated that the replies of the local Officers would be received. The reference on the Oaths question had been made in consequence of a Bill brought in by him (Mr. Forbes), and he was quite sure that he was within the truth when he said that the replies to the reference made were not received in less than six months. If therefore the present question were postponed, and the Penal Code was not to be passed until a settlement of the question of flogging were arrived at after the receipt by the Council of the opinions of all local Officers, it would be vain to expect that the Code should pass within the next six months, and consequently vain to anticipate that it would be in operation, as was intended, on the 1st of May next.

SIR BARTLE FRERE said, he still preferred the course proposed by the Honorable and learned Chairman, and was inclined to think that the question should be treated as an exceptional one and disposed of by a separate enactment. He thought, however, that the introduction of the measure should be made a matter of duty and not of choice, and that we should not throw upon any Members the disagreeable duty of bringing in

the Bill as a voluntary measure. If the Council were to charge a particular Member with the duty of drawing up and bringing in the Bill, he (Sir Bartle Frere) was sure that no Honorable Member would object to undertake the duty.

Mr SCONCE suggested the appointment of a Select Committee to prepare a Bill.

Mr. ERSKINE said, he was disposed to concur in much that had fallen from the Honorable Member opposite (Sir Bartle Frere). The punishment of flogging must always be an exceptional punishment under a civilized Government. It could be applicable only to special classes of cases, which ought gradually to become fewer and fewer day by day. There was reason therefore to doubt whether it should find place in a great Code like this from which it had been deliberately excluded by the framers—a scientific Code intended to be general and permanent in its application. He would prefer that a special law should be passed to amend and consolidate the different existing Regulations on the subject of flogging, and if there were any reasonable hope that a mature and well considered Bill of this kind could be prepared in time to admit of its being brought into operation simultaneously with the Code, he would join his Honorable friend opposite in supporting that course.

Mr. HARRINGTON said, it seemed to him that they would gain nothing by delay, and that they were in as good a position now for determining the question as to whether flogging should or should not be one of the punishments which might be awarded under the Code as they would be a month or six weeks hence—nor could he see any advantage in consulting the local Governments on the subject. Members representing most of those Governments were present, and they could probably speak very decidedly as to the views entertained by the local authorities in the parts of the country represented by them upon this particular question. He was satisfied that they might safely assume that the majority of the local authorities

Sir Bartle Frere

were in favor of flogging forming one of the ordinary punishments of the Code, and he thought, therefore, they had better come to a decision at once upon the question, and not defer the consideration of it for an indefinite period. If it was intended that flogging should be one of the punishments which the Criminal Courts might inflict, it seemed to him that the Code should say so, and that the punishment should not be left to be prescribed by a separate law, the introduction of which would be a matter of uncertainty. They were preparing a Penal Code for all India, and that Code would clearly not be complete, or be what it professed to be, namely, a general Penal Code if it omitted a punishment which might be administered under some other law not now in existence, but which might be passed hereafter. He gathered that the majority of Honorable Members present were in favor of flogging as one of the punishments to be inflicted under the Code, but that some doubts existed as to the offences on a conviction of which it should be awarded. This was however a minor difficulty, which he thought might easily be got over without a reference to the local Governments. They knew what offences were punishable with flogging under the Madras and Bombay Regulations, and under the Regulations of the Bengal Code which were abrogated by Regulation II of that Code. These Regulations would serve to some extent as a guide to them, and he thought the selection of the offences might be left to a Select Committee who might be required to make their report before the Committee of the whole Council had finished their revision of the Code. He would only add that the Committee should already determine that flogging should be included amongst the punishments authorized by the Code, though it was of course competent to them to go back and reconsider the question.

Mr. SCONCE said, the difficulty was not as to the selection of the offences to which flogging should be made applicable, but the necessity of the

republication of the Bill, if that punishment were now to be adopted. He had already adverted to a peculiarity in the Bombay Presidency with regard to the punishment of flogging. He would now notice a peculiarity in the Madras Presidency in relation to the same matter. In Madras, some years ago, flogging used to be inflicted by a rattan. Subsequently, however, the cat-o-nine-tails was substituted for the rattan, and consequently 150 lashes with the cat-o-nine-tails were equal to 30 with the rattan.

Mr. FORBES said, it appeared to him that the question of flogging was one which might very properly be referred by the Council to a Select Committee with instructions to consider to what offences the punishment of flogging should apply, and to prepare and submit to the Council a Bill to give effect to any course they might recommend for adoption. As the Committee would act under the instructions of the Council, its Members would not justly incur any of that odium which the Honorable Gentleman on his left (Sir Bartle Frere) appeared to apprehend would attach to any individual Member who might introduce a Bill to make corporal punishment a part of the Criminal Law, and if, notwithstanding this, obloquy should be cast on the Committee, its Members must accept it as one of the apparently inevitable consequences of entering public life. As the Honorable and learned Chairman was well known to be constantly occupied by his arduous and responsible duties as Chief Justice of Bengal, it could not be expected that he should form part of the Committee, but he (Mr. Forbes) was confident that, if they should require it, the Committee might rely on receiving from the Honorable and learned Gentleman that assistance which the Honorable and learned Gentleman was at all times so willing to afford. The Members of the Executive Government, too, might very fairly claim exemption from serving on the Committee in consideration of their many other duties; but if the Council would be willing to entrust the duty to the nominated Members of the Council,

he was sure that they would all cheerfully give their attention to the subject, and endeavour to the best of their ability to carry out the Council's instructions.

THE CHAIRMAN acquiesced in the suggestion and expressed his intention, as soon as the Council rose from Committee, to move the appointment of the Committee as proposed.

Section 1 was passed after verbal amendments.

Sections 2 to 8 were passed as they stood.

Section 9 was passed after verbal amendments.

Section 10 was passed as it stood.

Section 1 Chapter VIII (of offences against the Public Tranquillity) was passed after amendments.

Sections 2 to 8 were passed as they stood.

Section 9 (providing for cumulative punishment) was omitted.

Section 10 was passed as it stood.

Mr. SCONCE moved the introduction of the following new Section after the above, and said that it would embrace all who promoted or connived at the employment of latyals, and render them punishable as principals:—

“Whoever hires, engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly or himself had committed such offence.”

Agreed to.

Sections 11 to 13 were passed as they stood.

Section 14 provided as follows:—

“Whenever an unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, shall be punishable with fine not exceeding one thousand rupees, if he or his agents or servants, knowing of such assembly or riot or having reason to believe that it is about to take place, do not give

to the Principal Officer of the nearest Police station the earliest notice in his or their power of such assembly or riot, or of its being about to take place, and do not use all lawful means in his or their power to prevent such riot or assembly from taking place, or for dispersing or suppressing it."

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

"Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand Rupees if he or his agent or manager, knowing that such offence is being or has been committed or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal Officer at the nearest Police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means to disperse or suppress the riot or unlawful assembly."

Agreed to.

MR. SCONCE moved the introduction of two new Sections after the above. The first would render a principal punishable for the criminal neglect of his local Manager, and the second would apply the same punishment to Managers for criminal neglect. The proposed Sections were as follows :—

"Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land or in the subject of any dispute which gave rise to the riot or who has accepted or derived any benefit therefrom, such person shall be punishable with fine if he and his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place and for suppressing and dispersing the same."

"Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit

therefrom, the Agent or Manager of such person shall be punishable with fine, if such Agent or Manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same."

The Sections were severally agreed to.

Section 15 provided as follows :—

"Whoever hires or engages, or offers or attempts to hire or engage, any person to do or assist in doing any of the acts specified in Clause I of this Chapter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever hires or engages, or offers or attempts to hire, any person to go armed with any deadly weapon, or with any thing which used as a weapon of offence is likely to cause death, for the purpose of doing or assisting in doing any such act, or knowing it to be likely that the person so hired or any person assisting him will go so armed or use such weapon in doing or assisting in doing such act, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

MR. SCONCE moved the omission of the above Section and the substitution of the following Section :—

"Whoever harbours, receives, or assembles in any house or premises in his occupation or charge or under his control any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term that may extend to six months, or with fine, or with both."

Agreed to.

Sections 16 to 18 were passed as they stood.

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

RAILWAYS.

MR. ERSKINE moved that a communication from the Government of Bombay forwarding the draft of an Act for regulating the working of locomotives in the Railway lines whilst

under construction, be laid upon the table and referred to the Select Committee on the Bill "to amend Act XVIII of 1854 (relating to Railways in India)."

Agreed to.

Mr. FORBES moved that Mr. Erskine be added to the Select Committee on the above Bill.

Agreed to.

REGISTRATION OF ASSURANCES.

Mr. FORBES moved that Mr. Erskine be added to the Select Committee on the Bill "to provide for the Registration of Assurances."

Agreed to.

PARSEES.

SIR BARTLE FRERE moved that Mr. Erskine be added to the Select Committee on the Petition from the Parsees of Bombay with the draft of a Code of laws adapted to the Parsee Community.

Agreed to.

VACATIONS (CIVIL COURTS).

Mr. SCONCE moved that the Bill "to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal," be referred to a Select Committee consisting of Mr. Beadon, Mr. Harington, and the Mover.

Agreed to.

FLOGGING.

THE VICE-PRESIDENT moved that a Select Committee be appointed, consisting of Mr. Harington, Mr. Forbes, Mr. Sconce, and Mr. Erskine, to consider and report on the punishment of flogging, and to prepare such Bill as they might consider necessary.

Agreed to.

The Council adjourned at half past 5 o'clock on the Motion of Sir Bartle Frere, till Tuesday the 11th instant, at 7 o'clock in the morning.

Tuesday Morning, September 11, 1860.

PRESENT:

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

Hon'ble C. Beadon,	C. J. Erskine, Esq.,
H. B. Harington, Esq.,	and
H. Forbes, Esq.,	Hon'ble Sir C. R.
A. Sconce, Esq.,	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 accordingly resolved itself into a Committee for the further consideration of the Bill.

The Sections of Chapter IX (of offences by or relating to public servants) were passed as they stood, except Section 12 (providing for cumulative punishment) which was omitted.

Mr. ERSKINE said, he saw no objection in this Chapter for the offence of offering or attempting to bribe a Judicial Officer.

THE CHAIRMAN said, he thought such a case would come under the head of abetment. At any rate he did not think it right to make both the parties, that is the briber and the person bribed, liable to punishment, for then this difficulty would arise, that neither would come forward and inform.

Mr. ERSKINE said, he apprehended that such a difficulty would only arise in the case of a bribe being accepted.

THE CHAIRMAN said, the point was fully considered by the Select Committee, who thought it unnecessary to introduce any provision on the subject. The following was what the Law Commissioners said in the matter:—

"One important question still remains to be considered. We are of opinion that we have provided sufficient punishment for the public servant who receives a bribe. But it may be doubted whether we have provided sufficient punishment for the person who offers it. The person who, without any demand express or implied on the part of a public servant, volunteers an offer of a bribe, and induces that public servant to accept it, will be punishable under the General Rule contained in