

Friday, 5th October, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

THE CHAIRMAN moved an amendment which was carried, and which made the Sections severally conclude as follows :—

“ shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

The consideration of the Code having been postponed, the Council resumed its sitting.

The Council adjourned at half past 5 o'clock, on the Motion of Sir Bartle Frere, till to-morrow, at 1 o'clock.

Friday, October 5, 1860.

PRESENT :

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

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

PENAL CODE.

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

Chiefly verbal amendments were made in Sections 368, 423, 428, 429, 437, 441, 443, 461, 462, 465, 466, 470, 473, 483, 485, 486, 490, 491, and 499.

Section 464 (forging or using a forged document with intent to injure or deceive), was omitted as included in Section 470.

Section 493 (cohabitation caused by a woman deceitfully inducing a belief of lawful marriage), which was the converse of Section 492 (cohabitation caused by a man deceitfully inducing a like belief), was omitted as unnecessary.

Section 497 provided as follows :—

“ Whoever has sexual intercourse with the wife of another man without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.”

THE CHAIRMAN moved the insertion of the words “a person who is and whom he knows or has reason to believe to be” after the words “Whoever has sexual intercourse with” in the beginning of the Section.

Agreed to

THE CHAIRMAN moved the addition of the words “In such case the wife shall not be punishable as an abettor.”

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

Section 498 provided as follows :—

“ Whoever by force or fraud takes away or entices a married woman from her husband, or from any person having the care of her on behalf of her husband, or conceals or detains any married woman with intent that she may have illicit intercourse with any person, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.”

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

“ Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with such intent any such woman, shall be punished, &c.”

Agreed to.

MR. ERSKINE moved the introduction of the following new Section after Section 514 :—

“ Whoever circulates or publishes any statement, rumour or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the army or navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.”

Agreed to.

Section 277 provided for the punishment of any person driving or riding

on a public way "in a manner so rash or negligent as to indicate a want of due regard for human life, or in such a manner as is likely to cause hurt or injury to any other person."

The CHAIRMAN moved the substitution for the words in italics of the words "endanger human life or to be."

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

Similar amendments were made in Section 278, Sections 283 to 285, and Sections 334 to 336.

The Council having resumed its sitting, the Code was reported with amendments.

The Council adjourned at 5 o'clock (on the Motion of Sir Barle Frere), till to-morrow, at 11 o'clock.

Saturday, October 6, 1860.

PRESENT :

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

His Excellency the Commander-in-Chief.	H. B. Harington, Esq.,
Hon'ble Sir H. B. E. Frere,	A. Scance, Esq.,
Hon'ble C. Beadon,	C. J. Erskine, Esq.,

EMIGRATION TO ST. KITTS.

The VICE-PRESIDENT read a Message informing the Legislative Council that the Governor-General had assented to the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Kitts."

SOOTANUTY, &c., TALOOKS.

The CLERK presented to the Council a Petition of James Welch, Esq., Receiver of the estate of the late Rajah Rajkissen Bahadoor, praying for the passing of an Act to enable the Talookdars of Sootanuty of Bang Bazar and of Hoogul Coondy to realize their rents and dues.

Mr. SCANCE said, the object of this Petition was to induce the Council

to adopt a private Bill. They alleged that they were unable to adequately realize the rents due to them from their Talooks which were situated within Calcutta. He would at the present moment offer no opinion as to the existing state of the law. He would only say that this matter had been before the Lieutenant-Governor, and would read to the Council a letter written by His Honor on the subject. It was addressed to Rajah Radhakant Deb in reply to a memorial submitted by him. The letter was as follows :—

"I am directed to acknowledge the receipt of your letter, dated 1st September last, transmitting for submission a memorial representing the difficulty experienced by you in realizing the rents of your Talook Sootanuty, in Calcutta, and in reply to state that the Lieutenant-Governor considers the matter a fit one for the introduction of a private Bill into the Legislative Council.

You are recommended to petition the Council to pass a Bill, appending to your Petition a draft of such Bill as you wish for. This you had better procure to be prepared by Counsel.

The Lieutenant-Governor will request Mr. Scance to give his attention to the Petition when presented."

At present it seemed to him (Mr. Scance) premature to adopt the Bill and to bring it in for a first reading. It was a case which came before us as an *ex-parte* statement. It seemed to him that the proper course would be to print the Petition in order that the parties on the other side might be enabled to present a Petition containing their views on the subject. Standing Order No. XXXIII provided as follows :—

"Drafts or projects of laws proposed by private persons must be accompanied by a Petition, praying that the same may be taken into consideration by the Legislative Council, and shall be dealt with in the manner prescribed by these 'Orders' under the head 'Petitions.'"

Under these circumstances he begged to move that the Petition be printed, which he believed was the first course prescribed by the Standing Orders with regard to Petitions.

Agreed to.