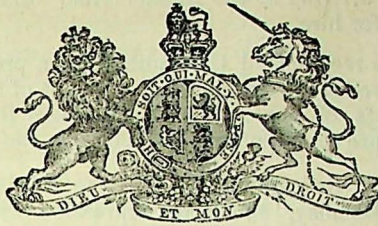


THE



Bombay Government Gazette.

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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following extract from the Proceedings of the Governor of Bombay in the Legislative Department is published for general information :—

Abstract of the Proceedings of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of "the INDIAN Councils' Act, 1861."

The Council met at Poona on Wednesday, the 12th October 1870, at noon.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZGERALD, K.C.B., G.C.S.I., Governor of Bombay, *presiding*.

His Excellency the Honourable Lieutenant General SIR AUGUSTUS ALMERIC SPENCE, K.C.B.

The Honourable S. MANSFIELD, C.S.I.

The Honourable H. P. ST. G. TUCKER.

The Honourable the ACTING ADVOCATE GENERAL.

The Honourable A. D. SASSOON, C.S.I.

The Honourable BYRAMJEE JEJEEBHOY.

The Honourable VENAYEKRAO APPA SAHEB of Koorundwar.

The Honourable COLONEL M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart.

The Honourable G. M. STEWART.

The following papers were presented to the Council :—

I.—Report of the Select Committee on the "Bill for the levy of Fees for the use of the Government Bunders, Wharves, Landing-places, and Piers in the City of Bombay" :—

1.—The Select Committee consider that it is inexpedient to empower Government to levy fees upon persons and carriages *entering* upon or embarking or disembarking at the Government Bunders and landing-places in view of the detentions and obstructions to which the population would be exposed if the 1st Section of the Bill, as it originally stood, became law. It has therefore been altered so as to limit its scope to the levy of fees upon goods and vessels arriving at the Bunders and other landing-places, and upon animals and vehicles plying for hire.

2.—The Committee also recommend the addition of a proviso to this Section giving the Local Government a power of exempting from payment of fees. Similar provisos are contained in many other Acts of general incidence where the exceptions which public expediency makes desirable are too numerous to include in the statute.

3.—In the Preamble and throughout the Bill the words "Island of Bombay" have been changed into "City of Bombay," the latter expression being defined in the Bombay General Clauses Act, 1866.

4.—In Section 2 the words "in pursuance of this Act" have been substituted for the word "thereunder."

5.—It appears to the Committee desirable that the procedure in levying fees should be determined before the Bill is passed into law: and that legal penalties should be attached to breaches of its provisions, whether committed by the Officers appointed to collect the fees or by the individuals from whom they are to be levied. Following the precedent of Bombay Act IV. of 1869 (*an Act for the levy of Town Duties within the City of Bombay*) the Committee have drafted a new Section (which they recommend for insertion as Section IV.) applying to the levy of fees under this Bill the same procedure and penalties as are provided for in the laws relating to Imperial Customs. As these laws are well understood by the Courts and the public their application seems both advisable and convenient.

6.—In consequence of the addition of this Section some provisions of Section III. have been expunged as being unnecessary. A verbal improvement has also been made in the concluding sentence. Section IV. of the Bill as read a first time being also rendered unnecessary by the new Section has been omitted.

7.—Section V. has been left out as the Bill elsewhere provides that it shall not come into operation until the limits of a Bunder and the rates of fees to be levied there have been fixed by notification.

8.—A new Section V. has been added requiring that tables of fees in both the English and Vernacular languages shall be conspicuously exhibited wherever fees are levied under the Bill. This is expressly provided for in the laws relating to Public Tolls and Ferries, and the Committee consider that the check on fraud and extortion afforded by this precaution is sufficient reason for making direct legislative provision in the present matter.

9.—The Committee have thought it advisable in the event of future legislation regarding the port that reliable statistics of net revenue from Bunder fees should be ascertained and published. They also recommend that the revenue so raised should be expended upon matters connected with the landing and wharfage accommodation in the City of Bombay. With these intentions a new Section VI. has been appended.

10.—The Honourable Sir Jamsctjee Jejeebhoy has been unable to attend the Meetings of the Committee.

S. MANSFIELD.

M. K. KENNEDY.

A. R. SCOBLE.

G. M. STEWART.

4th October 1870.

II.—Letter from the Survey and Settlement Commissioner, N.D., pointing out that the name of the village entered as No. 7 of the Schedule annexed to Bill No. 6 of 1870, is "Ralaras" and not "Ralaus."

Bills and Orders of the day :—

Colonel Kennedy moves the second reading of the Bill for the levy of fees for the use of Government Bunders, &c.

The Honourable Colonel KENNEDY moved the second reading of Bill No. 5 of 1870, "A Bill for the levy of fees for the use of the Government Bunders, Wharves, Landing-places, and Piers in the City of Bombay."

The Honourable Mr. STEWART said—Before the principle of this measure is approved, I wish to say a few words on a subject which relates to no particular section of the Bill, but rather to the policy which has led to its introduction. In the first place I do not wish to offer any opposition to the Bill as amended by the Select Committee. I readily admit the necessity for works of improvement in the harbour of Bombay; I admit also that it is right that the trade of the port should pay for such works; and I cannot suggest any mode of taxing trade likely to prove less objectionable than a charge for the use of accommodation provided for its convenience. But the Honourable Colonel Kennedy, in moving the introduction of this Bill, has told us it is the intention of Government to levy fees, with the object of paying off the capital debt, in order that Bombay may be made a free port at some future time. Now, Sir, I am fully alive to the great advantages which would result if Bombay were a free port, but I am strongly averse to the process by which it is proposed to arrive at that end. If we consider the extent to which it would be necessary to tax trade for the purpose, or the very remote period at which the object can, by any possibility, be gained, I think those interested in the trade of the present may well take alarm. The very fact that to make the port free has been alluded to as an object to be attained is a tacit admission that it is objectionable that trade should be taxed at all, and in passing this Bill we consent to such a course only in the belief that facilities will be afforded which will more than compensate for the obstruction which must inevitably be created. But I submit that, in order to carry out the policy indicated by my honourable friend, it would be necessary to tax trade to an extent which would more than counteract the advantages to be derived from expenditure, however well it may be directed. We are told, with reference to the recent action of Government in purchasing land on the foreshore of the harbour, that it was to prevent a dangerous monopoly—a monopoly which might tend to oppress trade; but no private Company would ever propose to pay off its original capital out of revenue, nor was it ever likely that trade would be oppressed to anything like the extent that would be necessary in order to pay off the harbour debt. I do not go so far as to say that funds should be raised only to the bare extent necessary to meet interest and current expense; a fund will no doubt be necessary for the maintenance of works or the construction of improvements. What I wish to urge is the danger of a policy which may tend to create a present obstruction with a view to affording future facilities. A tax on trade, however light it may be, must always have an appreciable and an injurious effect. In these days of telegraph communication, and speedy transit, when traders have to be content with small profits, the most trifling item of charge has to be taken into consideration, and has much greater weight than in former days. There is and ought to be a wholesome competition between Bombay and other ports on the East coast of India, and there is a very rich and extensive country, the trade of which will find its way to or from either the East or West coast according as it finds the greatest advantages and the smallest expenses. I say, therefore, that for the permanent welfare of Bombay, the true policy, more especially at the present time, is to relieve trade of every possible burden and obstruction. It seems to me that the circumstances which have rendered this Bill necessary are exceptional, and I hope only temporary—that is to say, I hope it will not long be necessary for Government to levy fees on bunders which have hitherto been free. As a first step towards a better system of harbour administration, Government has incurred a large debt for the purchase of property which does not at present yield a revenue sufficient to meet the interest on the sum it has cost. The object of this Bill, I understand, is to enable Government to make up that deficiency by taxing the traffic of other quarters,—traffic which has hitherto been free, and which has not derived any advantage from the purchase I have referred to. This course may be necessary as a temporary measure; but I would strongly urge that as a rule every new work and every new purchase should rest on its own merits, and, as far as possible, be made self-supporting, so that existing appliances which have hitherto been free may continue to be free. I hope, Sir, that the debt to which I have alluded will soon be materially reduced by a transfer from the Imperial revenues in consideration of the site provided for the Great Indian Peninsula Railway, and that then the Elphinstone Dock Estate will prove self-supporting. I trust, also, that funds may be provided by the sale of land not immediately adjoining the harbour which will be available for new works, each one of which will, I hope, produce a revenue sufficient to give a fair return on its own cost.

We are told that this Bill is in anticipation of a larger measure shortly to be introduced. I presume, therefore, that it will remain only a short time in operation, and that when the larger Bill is before the Council, we shall have an opportunity of considering the whole question with the benefit of some political experience as to the working of this Act.

Bill read a second time and considered in detail.

The Bill was then read a second time, and the Council proceeded to consider it in detail.

The Honourable Colonel KENNEDY said he had an amendment to propose in section 1 of which he had not given notice, but as it would not affect the principle of the Bill he presumed he would be allowed to bring it forward. The amendment was simply that after the words "pier" or "piers" throughout the section the words "hard" or "hards" should be inserted, so that the Bill would be for the levy of fees on the use of Government bunders, wharves, landing-places, piers, and hards. "Hards," he explained, were places where vessels were hauled up for the purpose of being scraped and cleaned, for the use of which a certain revenue was at present derived, and it had been brought to his notice by the Commissioner of Customs that it would be necessary to include hards among the conveniences mentioned in this Bill, so as to authorise the levy of fees for the use of them.

Amendment agreed to.

The insertion of the words was agreed to.

The Honourable Colonel KENNEDY then moved that in section 1 the words "and for persons entering, or porters or others working, or plying for hire," be inserted after the word "alongside" in line 14. In explanation of this amendment he said that, notwithstanding the heavy outlay incurred upon the Mazagon Pier, and the still heavier outlay to be incurred on Apollo Pier, goods and merchandise were seldom landed at these places, which were almost entirely used by passengers. So that unless revenue was raised in this way it would be quite impossible to provide for the interest on the capital sunk in these works. It was also intended to construct for the convenience of the port other piers, and of course the same argument would apply to these. With regard to the fee proposed to be levied on porters, it seemed to be a very legitimate source of revenue to impose a fee on such persons in lieu of a licence for permission to ply for hire on the bunders. Mr. Ryan, Traffic Manager of the Elphinstone Company, had written to him a letter, in which he said—

"There are three classes of labourers engaged in carrying on landing and shipping operations. They have formed themselves into gangs, and monopolise by sheer force of intimidation the entire patronage of the traffic on the wharves:—

- "1. Naoguunics, for heavy goods, ten to twelve annas per diem.
- "2. Ordinary coolies, for light goods, six to eight annas per diem.
- "3. Women and boys, for miscellaneous articles, three to five annas per diem (wives and children of the foregoing)."

Not only could the coolies afford to pay the fee, but they would probably be very willing to do so, and they might have a badge by which they would be recognised as authorised porters. Then there were persons going on to the bunders ostensibly in search of labour, but really for the purpose of pilfering, and it was desirable that these persons should be kept away from the bunders; and this could be done in the way he had suggested, by authorising those who went there to work. In Liverpool and other places in England cargoes were shipped by regularly authorised gangs of porters, who were under the control of the officials, and that might be done to a certain extent in Bombay. He, therefore, proposed that a small fee should be taken from porters or other persons plying for hire on the bunders.

The Honourable Mr. STEWART said he would vote against the amendment. The Bill as originally submitted was to extend to Government power to levy fees upon persons making use of the Government bunders; but the Select Committee considered that it was inadvisable that such power should be given to Government, because of the obstructions to which the population might be exposed. The Honourable Colonel Kennedy had alluded to certain bunders at which it might be desirable to levy fees, and, without reference to any particular bunders, he quite admitted that there might be cases in which it would be desirable that some fees of the sort should be demanded; but the amendment now before Council would give an unrestricted power to Government to charge fees upon every wharf or bunder, and upon every class of persons entering upon those bunders, and this he considered was either unnecessary or undesirable. The honourable and gallant Member had referred to porters or persons plying for hire as a class who ought to pay some sort of fee,

but he would rather argue that these formed a class which ought specially to be exempt. They were employed in landing goods liable to fees, and he thought it would be a hardship if, in addition to the fees levied on the goods, the persons carrying the goods should also be taxed. As to the argument that the power to levy fees might be used to prevent pilfering, he did not think the object of the Bill was to protect the public from pilfering, and therefore that argument did not apply. No doubt it was the case that the Bill was only permissive, and that Government might levy only such fees as were considered expedient; but they were not aware of what the action of Government would be, and he therefore thought it was their duty to consider what the consequences might be if the powers conferred by the Act were exercised to the fullest extent. Possibly Government might not find it desirable to levy any fees or toll on person, and in that case the power to do so would be unnecessary; or possibly the rates demanded might be very trifling, in which case he submitted the revenue obtained would be altogether incommensurate with the annoyance which would be created. If, on the other hand, these fees were made an important source of revenue, then, in addition to the annoyance and obstruction that must result, there would be a serious burden upon a very large class of people in Bombay, including all those who earned their livelihood between the shipping and the shore. He would therefore vote against the amendment of the Honourable Colonel Kennedy.

The Honourable VENAYEKRAO APPA SAHEB of Koorundwar did not think passengers ought to be taxed.

The Honourable Mr. MANSFIELD said that having been on the Select Committee, and having voted for the amendments, he thought it right that he should state that he had modified his opinion, and his reasons for so doing. It was, he believed, intended, not as was supposed to levy these fees upon all bunders, but only upon such bunders as were bought or constructed by Government. It was evident that bunders bought or constructed by Government were in the same position as private property, and Government ought to have the same right as the owners of the private bunders. Owners of private bunders did not think it advisable to levy fees upon persons going on to the bunders, and, therefore, why should Government do it? But in respect to piers which had been built, or which are about to be built, at the expense of Government, it seemed reasonable that Government should be empowered in the same manner as private Companies are empowered to levy fees for the use of such accommodation. Under these circumstances he felt that he must vote contrary to his vote on the Select Committee.

The Honourable the ACTING ADVOCATE GENERAL said that as he was a member of the Select Committee he did not think he ought to give a silent vote on this matter. The opinion he had entertained on the Select Committee had not been modified in the slightest degree by what had fallen from the honourable and gallant Colonel Kennedy and the honourable Mr. Mansfield. As the Act was only a temporary measure, he thought it was undesirable to alarm the public by giving powers to Government, which Government appeared not to wish to exercise—at all events for the present; and he did not see why powers should be given unless it was intended to put them in force. With regard to the proposal to levy a fee on persons entering on any bundar, he thought it would be very undesirable to do so, as it would give rise to an amount of annoyance to persons using Government bunders either for business or pleasure quite incommensurate with the amount of revenue which would be got from it. The number of persons going to the bunders with the object of enjoying the fresh air, for example, was very considerable; and if these persons, who had acquired almost a prescriptive right to the use of the bunders, were suddenly deprived of the right of going upon them unless they paid a fee, an amount of annoyance and discontent would be occasioned by that measure which, in his opinion, would not be at all compensated for by the amount of revenue to be derived from it. In this country, where the fee must be a small one, the revenue to be derived from persons entering the bunders otherwise than on business would be almost infinitesimal, and it would be a great inconvenience to such persons to have to carry small change about them, apart from the discontent that they would naturally feel at being deprived of places of resort which have been free ever since Bombay has been a port. The same observations applied, with even greater force, to persons resorting to the bunders on business. With regard to the second and more important part of the proposal, namely, to tax persons working for hire on the bunders, he would certainly oppose that. He did not think the arguments brought forward by the honourable and gallant Colonel were sufficient to warrant the imposition of such a tax. If there were gangs on the bunders, no doubt it would be a good thing to bring them into subordination, but he apprehended that would be better done by an efficient police than by imposing fees; and surely if those gangs

were strong enough to hold the bunders now, they would imagine themselves stronger when they had in a manner obtained recognition by paying fees to Government. If at present these gangs were strong enough to hold the bunders, they would, when they had paid their fees, be strong enough to raise their charges, and so increase the cost of landing and shipping goods, and bring about the disadvantages which Mr. Stewart spoke of in his speech on the vote for the second reading of the Bill. Then as to the pilferers, he thought they also would be more efficiently checked by a good Bunder Police than by the imposition of a fee. If a man wished to pilfer, he would willingly pay a small fee in order to have the opportunity of coming on the bunders to do so. If men were seen on the bunders who were known to be reputed thieves, they could be turned off by the police, or taken into custody and brought before a Magistrate; but when this Bill became law, he apprehended the difficulties of the Police would be increased by such persons saying, "I am not loitering here; I am an honest man seeking for work. I have paid a fee to come on to the bunder to seek for work, and claim my right to remain here." These fees would be a tax on labour, and he thought a tax on labour could only be justified in case of very strong necessity being made out for the imposition of such a tax. The price of labour was sufficiently high already, and was there any probability that the fund to be raised by this Bill would be insufficient unless supplemented by such a tax? He did not know whether any calculation had been made of the amount of revenue expected to be raised under the Bill; but he apprehended that if from policy the smallest coin known to the Indian coinage—one pie—were made the fee, a very small amount of revenue would be raised. He found from a statement made in the report of the Elphinstone Company for 1866, that upon the four bunders which belonged to that Company (and which four years ago were not anything like so large and important as they now were), before the overbridges were built, 67,300 foot-passengers and 4,041 carts crossed the railway to enter the bunders on 5th January 1866, giving 1,34,600 passengers and 8,082 carts both ways. Taking the average at one lakh of passengers a day, that would give 365 lakhs of person using these bunders in the course of a year; and if from every one of these persons a pie were taken, the amount raised would come to little over two lakhs of rupees; he did not think the necessity for raising two lakhs of rupees for the purposes of this Bill was so great as to justify the annoyance, and what would be regarded by many as the oppression, which the imposition of a fee would cause to the vast number of persons who daily use these bunders. If a strong case of necessity for the money were made out, he should feel it to be his duty to vote for the amendment; but he thought that no such case had been shown, and on these grounds he would vote against the proposed amendment.

His Excellency the President said—I am desirous of saying a few words on this measure with reference to the arguments which have been used by the Honourable Mr. Stewart and the learned gentleman who spoke last.

His Excellency the President's remarks on the Bill. First, I would say that I think it but fair that the objection now raised to the amendment of the Honourable Colonel Kennedy should be considered with a full knowledge of what the intentions of Government are. I may mention, therefore, that the Honourable Mr. Mansfield proposes to move a proviso at the end of the clause should the amendment be adopted, to the effect that no fees shall be levied on persons landing or embarking at bunders where the public have by long custom what is almost equivalent to a prescriptive right to land free from any payment whatever. I think that this is only a very proper amendment, and as time has not permitted that formal notice of it should be given, it is necessary that it should be known and considered by the Council in connection with the very important questions just raised. Now, in adverting to what has been said by the honourable gentlemen who have just spoken, I quite admit that nothing could be so contrary either to the interests or to the duty of Government as to levy a universal fee upon the passengers or persons who come upon the Government bunders, or upon every porter that plies there for hire, or frequents these bunders in the course of his daily work. I can quite understand that that would be a very serious impediment to trade, and consequently I can say for myself that I could not under any circumstances assent to such a proposal, if it were possible that such a proposal could be made; but to have the power to levy a general toll, and consequently the right to exercise the power as regards particular portions of Government property, is a very different thing from the indiscriminate and reckless imposition of an oppressive tax. And here I may say that there is one exception which I must unhesitatingly and strongly take to the opposition with which this proposition has been met. I must say that the distrust which is manifested towards the Government in the refusal to give it powers which would at once be conceded to any private Company which may be authorised to construct bunders at their own expense is as unreasonable as it is unjust.

The power which you are invited to refuse to Government is a power which was possessed by the Elphinstone Company; and if the Elphinstone Company found it inexpedient with a view to their own financial interests to levy a fee of this kind, surely the same motives must actuate Government, and will make it as impossible for Government to levy such a fee as it has been for the Elphinstone Company. But there is this great difference between the action and motives of Government and of a private Company. Far above and beyond the question of financial interest, which we are told prevented the Elphinstone Company from levying such a fee, the duty is imposed on Government of considering the public interest and convenience, and therefore, unless you suppose that Government is at the same time regardless of its own interest, and, what is more, of its highest duty, it is perfectly clear that a power of this kind, however general, could not be used in the oppressive and heedless manner my honourable friend, the Acting Advocate General, seems to anticipate. And I must confess I think it is a great mistake, especially in this country, so to distrust the exercise of responsible authority on the part of the executive Government as to refuse to give powers to the Government itself that you would have no hesitation in granting to a private Company. As regards the merits of the proposal, it appears to me to be of the utmost importance that you should give the public as widely as you can access to the bunders; but the power of levying fees of this kind in particular cases will in the first instance enable us to make and complete the various piers which we propose to erect, and to improve some which have been already erected, in the harbour of Bombay. Now, I would point out what will be the effect of refusing this power to Government. Proposals have been made by various private Companies and individuals to construct at their own cost piers stretching out into deep water for the landing of passengers and mails, and for unloading such vessels as may have cargoes sufficiently valuable to pay the increased cost of being discharged at these piers; but at present it appears to me to be the policy of Government to construct these piers itself; and inasmuch as it cannot be the object of Government to make the large profit which induces private individuals to enter into a speculation of this kind, it would no doubt be to the interest of the public to have as many as possible of these piers constructed by Government, although at the same time there might be others which, from regard to the locality or the means of access, it may be necessary or expedient for us to hand over to private parties to construct for themselves. Now, if you pass this Bill with the restriction that no fee is to be levied upon passengers, you will probably make it impossible for Government to construct these piers, the necessity and advantage of which we fully recognise; because you will deprive us of one main source from which a simply remunerative return sufficient to pay the interest on the capital expended can be derived. I do not doubt that if it is found that Government cannot construct such piers itself, we shall be called upon to give permission to private parties or Companies to construct piers of this kind; and this Council, that will have refused to the Government the power to levy fees upon passengers landing at these bunders, if constructed by Government, will unhesitatingly give to private parties who come in and construct the very piers which we ourselves propose to erect, the power to levy the fees upon passengers which it refused to the Government. Now, can anybody explain to me why it is that you should legislate in a form which may prevent Government from undertaking works of very considerable public advantage, and compel us to hand them over to private parties? Why should you, on the one hand, say to Government—"We cannot trust you to levy a fee upon passengers, though you can have no object in making large profits, and every rupee you earn can only be expended for the improvement of the port and the public convenience;" and at the same moment say to the private Companies which come in our place—"We will give you power to levy that fee upon passengers which we refused to the Government, in order that you may increase your profits, and enrich yourselves?" Upon what principle such legislation as this can recommend itself to the Council I cannot understand. My honourable friend opposite, Mr. Macleod Stewart, who opposes the proposal to give these powers to Government, is one of those who are desirous of constructing a pier of this kind, and the very first thing he will do will be to come to Government and smilingly say—"We hope Government will be good enough to pass a Bill to give the Colaba Company power to levy those fees which the Council refused to the Government of Bombay." I must confess it seems to me it will be stultifying ourselves altogether were we to sanction any such legislation as that. Mr. Stewart has said he does not think the object of this Bill is to stop people from pilfering on the bunders. No; it is not certainly. But if that be an attendant advantage to the proposal now made, I think it may very fairly and properly be laid before the Council as an additional reason why that proposal should be adopted. In my own experience I can say that in the case of one of the largest mercantile ports in England, it was represented before a Committee of the House of Commons on a Bill to

enclose the Docks and so prevent the unrestricted access of the public to them, that there was no doubt that pilfering went on to the extent of something like £200 per day. That was the very lowest estimate at which the loss to the merchants or shipowners, as the case might be, was put by the Police, and that amounts to about £70,000 a year. Now, if it would be an attendant advantage, that by taking a fee you would throw an obstacle in the way of pilfering of that kind, I think it is an additional reason for passing a measure which will restrict the number of the idle public who may resort to the bunders for other proposes than business or honest employment. The Advocate General has said that this levy of fees upon people who come for the purpose of pilfering would in a way legalise their pilfering. But I must say I am at a loss to understand how that would be or what he means. I can understand that if persons come on to the bunders ostensibly as porters but really as pilferers, if they are required and are able day by day to pay a fee, their doing so will make them better known and more readily recognised, and there will thus be a considerable impediment in their way, and a considerable discouragement as giving increased means and opportunities of identification. Now, the most formidable argument used by my honourable friend the Acting Advocate General, was his calling this fee a tax on labour. That is a very telling phrase, and it is a formidable weapon in his hands if he can say to his adversary, "You are going to tax labour." But I emphatically reply we do not tax labour. In principle what we do is this: we say to the man who earns his rupee a day, as we say to the merchant who earns a large income by the import of goods, or the owner of the vehicle in which they are removed—"You receive an advantage from the works which were constructed for you, and which facilitate your labour. These works were constructed by Government for you in common with others, and it is but fair that you should pay for that advantage given to you by the Government." It is no tax upon the labour; you merely say to the man who earns much, and to the man who earns little—"Proportionately to what you earn, you shall pay for the advantages which at great cost Government has been able to provide." Such would be the principle on which a levy of fees on persons, if it were proposed to enforce one, might properly be justified. I have already said that no such levy is contemplated or could receive our assent, and I am now only arguing the matter in order to expose the fallacy of my learned friend's objection. Again, Mr. Scoble said that if it were shown to him that the revenue was necessary, he would not vote against the proposal. I cannot say that I am in a position to state that the revenue is absolutely necessary at the present moment, or, on the other hand, that it may not be required; but this I can say, it is absolutely impossible, looking to the requirements of Bombay, and the vast sums we shall have to expend sooner or later, and which we are already commencing to expend, to say what amount of revenue may be wanted in order to enable us to carry out to the utmost the great schemes of improvement which I hope to see initiated before I leave this presidency. And although I cannot say at this moment what amount would be raised by this tax if it were imposed, I am sure that it is of importance that a power should be given to raise, in as inoffensive a manner as we can, a far larger amount of revenue than we at present possess. I commenced by saying that anything like an exercise of this power in the manner supposed, which would burden trade and obstruct the vast numbers who go daily to these bunders, would be not only a shortsighted policy, but at the same time contrary to the direct duty of Government. What we ask is that you should give the same power to Government which you would not hesitate to give to private Companies, which is possessed by Companies whom I see represented round this table, and that you should give Government credit for this, that alike from a regard to their interests as to their duty they will not put in force in an oppressive manner the powers you are asked to concede. For myself I shall certainly vote for the amendment of the Honourable Colonel Kennedy.

The Honourable Mr. STEWART said he wished to point out that the privileges at present enjoyed by the owners of private bunders were limited, as the fees levied by them were subject to the sanction of Government. And he submitted that the position of the owners of private bunders was different from the position of Government. Private bunders had been purchased, and their owners had a right to say to any person, "You shall not come here at all;" or, "if you come, you shall pay a certain fee;" but he did not think the same could be said of the public bunders, more especially of such bunders as had hitherto been free to the public. But, as he had said before, his reason for voting against this amendment was that it would not limit the power to any particular bunders, but would be general over the whole of the Government bunders in Bombay. Then another reason why it would be undesirable under any circumstances to levy fees on passengers or persons was that for that purpose a separate establishment would be required. For collecting fees on

goods and merchandise the machinery now employed for Customs duties might be made use of, but if persons were to be taxed a separate and distinct system would be necessary, which would give rise to additional obstruction.

The Honourable Colonel KENNEDY, in reference to the argument that the fee on coolies would ultimately fall on the goods, remarked, that if labourers were not taxed then it would be necessary to increase the fees on goods, so that so far as the merchants were concerned it came to the same thing. Mr. Scoble had questioned the necessity of raising funds by the levy of these fees; and in regard to that he would remark that piers were being constructed, and others were about to be constructed, by Government; and unless they had the means of raising revenue, they would have no funds for the payment of the interest on the capital required for these purposes.

His EXCELLENCY the PRESIDENT remarked that there was one thing which he had omitted to say, and he mentioned it merely in order to show that he was not putting forward any hypothetical case in contending that it would be desirable to have the means of raising a revenue of this kind upon bunders such as those he had alluded to as being in contemplation. The question was practically taken in hand with the view of having plans submitted to Government as far back as May last, and he was in daily expectation of having completed designs and estimates submitted to him. He could only repeat, that it would be quite impossible for Government to undertake the grave responsibility of obtaining capital to defray the expense of constructing such works, if the means of raising sufficient revenue to meet the interest were not given to it.

His Excellency then put the amendment to the Council, when the votes were :—

Ayes 4.

His Excellency Sir W. R. S. V. FITZ
GERALD, K.C.B., G.C.S.I.
His Excellency the Honourable Sir
AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable Mr. MANSFIELD.
The Honourable Colonel KENNEDY.

Noes 7.

The Honourable Mr. TUCKER.
The Honourable the ACTING ADVOCATE
GENERAL.
The Honourable Mr. SASSOON.
The Honourable Mr. BYRAMJEE JEJEEBHOY.
The Honourable VENAYEKRAO APPA SAHIB
of Koorundwar.
The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Mr. STEWART.

The amendment was therefore declared to be lost.

The Honourable Mr. BYRAMJEE JEJEEBHOY said he should be sorry, after the very minute and careful consideration this Bill had met with at the hands of the Honourable Members who formed the Select Committee, to have to say anything against any part of the Bill now presented to the Council in its amended form. But he could not help remarking that the distinction made between private carriages and public conveyances seemed to him to be unnecessary and unjust. The Select Committee had considered it "inexpedient to empower Government to levy fees upon persons and carriages entering upon or embarking or disembarking at the Government bunders," &c., on the grounds that the levying of such fees would cause "detentions and obstructions" to the people; and the Committee had therefore so altered the Bill "as to limit its scope to the levy of fees," among others, "upon animals and vehicles plying for hire." Now, he did not clearly see why there should be such an invidious distinction between private carriages and hired vehicles. Would not the levy of fees upon the latter cause an equal amount of "detentions and obstructions" to the people, to guard against which it was judged expedient to exempt the former from such fees? He was humbly of opinion that the people who had to use these hired conveyances were those who could less afford to bear the "detentions and obstructions," as also the extra charge, which it was but certain they, and not the owners of such vehicles, would have ultimately, though indirectly, to pay. He would therefore, with His Excellency's permission, propose that such fees should be made leviable upon those animals and vehicles alone that carried goods and merchandise, and with this view he requested permission to move that the words "carrying goods and merchandise" be inserted after the word "vehicles" in line 14 of section 1 of this Bill, and that the words "to ply for hire" which occurred in line 15 be omitted. He proposed the omission of the words "to ply for hire" for this reason. Some merchants in Bombay had carts or wag-

The Honourable Mr. Byramjee Jejeebhoy proposes that only vehicles "carrying goods and merchandise" should be taxed, and that the words "plying for hire" be omitted.

ent to empower Government to levy fees upon persons and carriages entering upon or embarking or disembarking at the Government bunders," &c., on the grounds that the levying of such fees would cause "detentions and obstructions" to the people; and the Committee had therefore so altered the Bill "as to limit its scope to the levy of fees," among others, "upon animals and vehicles plying for hire." Now, he did not clearly see why there should be such an invidious distinction between private carriages and hired vehicles. Would not the levy of fees upon the latter cause an equal amount of "detentions and obstructions" to the people, to guard against which it was judged expedient to exempt the former from such fees? He was humbly of opinion that the people who had to use these hired conveyances were those who could less afford to bear the "detentions and obstructions," as also the extra charge, which it was but certain they, and not the owners of such vehicles, would have ultimately, though indirectly, to pay. He would therefore, with His Excellency's permission, propose that such fees should be made leviable upon those animals and vehicles alone that carried goods and merchandise, and with this view he requested permission to move that the words "carrying goods and merchandise" be inserted after the word "vehicles" in line 14 of section 1 of this Bill, and that the words "to ply for hire" which occurred in line 15 be omitted. He proposed the omission of the words "to ply for hire" for this reason. Some merchants in Bombay had carts or wag-

gons of their own which would not be liable to the payment of any fees if the words "to ply for hire" continued in the section; while other merchants who were not so wealthy, and whose transactions were not so extensive as to justify their keeping private carts, or waggons, would have to pay the fees in addition to the ordinary hire of the animals or vehicles, which would be an infliction of unjust hardship on them.

In reply to an observation of the Honourable Mr. Tucker,

The Honourable Mr. Byramjee said he wished to bring in the words "goods and merchandise," so that only such carts as were carrying goods and merchandise should be taxed, and words "to ply for hire" omitted, so as to put hired and private vehicles on the same footing.

The words "to ply" struck out. His Excellency the PRESIDENT then put the question, that the words "to ply" do stand part of the section. The Noes had it, so that the words were struck out.

The Honourable Colonel KENNEDY said that before the other part of Mr. Byramjee's amendment—the insertion of the words "carrying goods and merchandise"—was put, he wished to say that he should oppose it for the reasons he had just stated. He wished particularly to catch buggies and other vehicles which plied for hire, and occupied a good deal of room on the bunders, and which it would be better not to have on the bunders at all except to take up passengers and when they were engaged.

The Honourable the ADVOCATE GENERAL suggested to the Honourable Mr. BYRAMJEE that he would carry out his own view and also Colonel Kennedy's if, in addition to the words "goods and merchandise," he would insert the words "or plying." He presumed the Honourable Mr. Byramjee's object was to catch such people as Mr. Nusserwanjee Byramjee, Carting Agent to the B. B. & C. I. Railway, who employed carts of his own, and who would escape if only vehicles plying for hire were taxed.

His Excellency the PRESIDENT then put the question to the Council, that the words "carrying goods and merchandise" be inserted after the word vehicles in line 14.

On this question the Council divided thus:—

AYES 8.

The Honourable Mr. MANSFIELD.
The Honourable Mr. TUCKER.
The Honourable the ACTING ADVOCATE GENERAL.
The Honourable Mr. SASSOON.
The Honourable Mr. BYRAMJEE JEJEEBHOY.
The Honourable VENAYEKRAO APPA SAHEB of Koorundwar.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
The Honourable Mr. STEWART.

NOES 2.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Colonel KENNEDY.

The Honourable Colonel KENNEDY said he had another amendment to propose in section 1, namely, that after the word "merchandise" the words "or entering or plying" should be inserted.

The Honourable the ADVOCATE GENERAL—Do you mean entering for hire or entering simply?

The Honourable Colonel KENNEDY—Entering simply.

The amendment lost. A division on this amendment resulted as follows:—

AYES 3.

His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.
The Honourable Mr. MANSFIELD.
The Honourable Colonel KENNEDY.

NOES 7.

The Honourable Mr. TUCKER.
The Honourable the ACTING ADVOCATE GENERAL.
The Honourable Mr. SASSOON.
The Honourable Mr. BYRAMJEE JEJEEBHOY.
The Honourable VENAYEKRAO APPA SAHEB of Koorundwar.
The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Mr. STEWART.

The amendment was declared lost.

The Honourable the Advocate General moved that the words "plying for hire" should be inserted after the word "vehicles."

His Excellency the President said those words had already been rejected by the Council as forming part of Colonel Kennedy's amendment, and could not now be adopted separately. Perhaps it would be as well since they had got into this mess to move the amendment on the third reading. As the section at present stood it was nonsense; it read "carrying goods or merchandise for hire." They might move that the words "for hire" be omitted.

The Honourable Colonel KENNEDY moved that the words "for hire" be omitted, which was agreed to.

On the motion of the Honourable Colonel KENNEDY, the word "rules" in line 7 of section 2 was struck out, and the word "by-laws" substituted.

On the motion of the Honourable Colonel KENNEDY, it was agreed that throughout section 3, wherever the words "ruled" or "rules" occurred, they should be struck out and the words "by-law" or "by-laws" substituted.

The Honourable Colonel KENNEDY moved that the words "duties and proceedings of officers appointed under this Act," which occurred in the 4th, 5th, and 6th lines of the 3rd section, be omitted, and the following words substituted:—"Use of the Government bunders, wharves, landing-places, piers, and hards referred to in this Act, and for the management of the traffic over or on them."

His Excellency the PRESIDENT said they were already beyond these lines, and they could not go back.

The Honourable Colonel KENNEDY said that that being so, he would propose the amendment on the third reading.

No alteration was made in section 4.

After some conversation the following amendment was then made in section 6 of the Bill:—The whole of the words following the word "Act" in the 10th line were struck out, and the following words substituted:—

"Also in payment of interest upon moneys expended or to be expended on the acquisition of the property of the Elphinstone Land and Press Company, Limited, on the reclamation of portions of the harbour foreshore, and in the construction and acquisition of docks, wharves, basins, piers, hards, light-houses and other property or works required for the trade and convenience of the city of Bombay, and on the maintenance and improvement of such property or works."

The Honourable Mr. TUCKER moved the first reading of Bill No. 6 of 1870, "A Bill to bring under the General Regulations and Acts of the Presidency of Bombay certain villages received in exchange from his Highness the Nizam's Government." In doing so the honourable gentleman remarked that the object of the Bill was apparent on the face of it. The Government of Bombay had exchanged certain villages with the Government of His Highness the Nizam, which were to be attached to the Collectorates, and it was

necessary to bring them under the general laws in force in what is technically called Regulation Territories. This Bill had been prepared with that object.

Bill read a first time.

The Bill was read a first time.

His Excellency the PRESIDENT asked Mr. Tucker whether he wished to refer the Bill to a Select Committee.

The Honourable Mr. TUCKER said he had no wish to do so; neither had he any objection. It would probably not be necessary to refer it to a Committee.

His Excellency said perhaps the most regular proceeding would be to put the question to the Council, and if it was not thought necessary to refer the Bill to a Committee, the honourable Members could vote against it.

The question was then put, and negatived.

His Excellency the President then adjourned the Council till next day.

By order of the Right Honourable the Governor in Council,

JOHN JARDINE,

Acting Under-Secretary to Government.

Poona, 12th October 1870.

The following extract from the Proceedings of the Governor of Bombay in the Legislative Department is published for general information:—

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the provisions of "the INDIAN Councils' Act, 1861."

The Council met at Poona, on Thursday, the 13th October 1870, at noon.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZ GERALD, K.C.B., G.C.S.I., Governor of Bombay, *presiding*.

The Honourable H. P. St. G. TUCKER.

The Honourable the Acting ADVOCATE GENERAL.

The Honourable A. D. SASSOON, C.S.I.

The Honourable BYRAMJEE JEJEEBHOY.

The Honourable VENAYEKRAO APPA SAHEB of Koorundwar.

The Honourable Colonel M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, BART.

The Honourable G. M. STEWART.

Bills and Orders of the day:—

Colonel Kennedy moves an amendment in Bill No. 5 of 1870.

The Honourable Colonel KENNEDY moved that in section 1 of Bill No. 5 of 1870, after the words "goods and merchandise" in line 15, the words "or plying for hire" should be inserted.

The words "to or from, or entering upon, or plying for hire" inserted after the words "goods and merchandise."

After some conversation, it was determined to insert after the words "goods and merchandise" the words "to or from or entering upon, or plying for hire" The Honourable Mr. BYRAMJEE JEJEEBHOY and the Honourable VENAYEKRAO APPA SAHEB of Koorundwar voting against the insertion of the words "or plying for hire," as that would be a tax on passengers going in hired shigrams.

The Honourable Colonel KENNEDY said he wished to move that the words "duties and proceedings of officers appointed under this Act," which occurred in the 4th, 5th, and 6th lines of section 3, be omitted, and that the following words be substituted—"Use of the Government bunders, wharves, landing-places, piers, and hards referred to in this Act, and for the management of the traffic over or on them."

The amendment was agreed to.

The word "also" in line 11 of section 6 was omitted.

Bill read a third time and passed.

The word "hards" having been inserted after the word "piers" in the preamble, the Bill was read a third time and passed.

On the motion of the Honourable Mr. Tucker Bill No. 6 of 1870, "A Bill to bring under the General Regulations and Acts of the Presidency of Bombay certain villages received in exchange from His Highness the Nizam's Government," was read a second time, and considered in detail. The spelling of the name of one of the villages in the schedule having been corrected from "Ralaus" to "Ralaras," the title of the Bill was so altered as to read "A Bill to bring under the General Regulations and Acts in force in the Presidency of Bombay certain villages received in exchange from His Highness the Nizam."

Mr. Tucker moves the second reading of Bill No. 6 of 1870.

Bill read a second time and considered in detail.

Bill read a third time and passed.

No other alteration being thought necessary, the Bill was read a third time and passed.

His Excellency the President then adjourned the Council.

By order of the Right Honourable the Governor in Council,

JOHN JARDINE,

Acting-Under Secretary to Government.

Poona, 13th October 1870.