



S U P P L E M E N T
TO THE
BOMBAY GOVERNMENT GAZETTE.

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PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

THE following Extract from the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of the Act of Parliament, 24 and 25 Victoria, Chapter 67, is published for the information of all whom it may concern :—

The Council met at Bombay, on Wednesday, the 4th March 1863.

PRESENT :—

The Honorable Mr. W. E. FRERE, Presiding.
The Honorable Mr. J. D. INVERARITY,
The Honorable The ADVOCATE GENERAL,
The Honorable Mr. W. B. TRISTRAM,
The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHoy,
The Honorable Mr. JUGONNATH SUNKERSETT,
The Honorable Mr. PREMABHAI HEMABHAI,
The Honorable Mr. A. D. ROBERTSON,
The Honorable Mr. M. H. SCOTT.

The PRESIDENT said it would be necessary to adjourn the consideration of the Reports of Select Committees on the 4 Bills which stood first on the Orders of the Day ; namely :—

- (1) A Bill for the Regulation of the District Police in the Presidency of Bombay.
- (2) A Bill for the Regulation of the Village Police.

- (3) A Bill to enable Magistrates to depute to Subordinate Magistrates power to try certain offences punishable under the Indian Penal Code.
- (4) A Bill to entrust Landholders with the charge of the Police within their respective lands.

This was put and carried.

The Council then proceeded with the consideration of the Report of the Select Committee on a "Bill for the re-incorporation and re-constitution of the Bank of Bombay."

Mr. ROBERTSON said that since the last meeting of the Council the Bill had been reprinted as amended, and laid before the Honorable Members; and Section XXXII. was the only Section which awaited disposal.

Mr. SCOTT said that unless Clause 11 of Schedule B of the original draft of the Bill were introduced the Bank Directors would feel themselves prohibited by Section XXXII. from making advances without deposit of security even to the Banks of Bengal and Madras. Such a provision ought, he thought, to be introduced. The Secretary of the Bank of Bombay had informed him that such a power was possessed by the Bank of Bengal.

Mr. ROBERTSON said that the power, if it existed at all, must have been conferred by a bye-law; it was not provided by the legislature, as would be seen from Section XXVII. of the Act (IV. of 1862) for regulating the Bank of Bengal, which he proceeded to read.

Mr. SCOTT then moved the addition to Article 1, Section XXXII. of the words "provided that the Directors of the Bank of Bombay shall have power to open drawing accounts with the Banks of Bengal and Madras, and to make from time to time, and with or without the deposit of collateral security, such temporary advances to each of these corporations as to the said Directors shall appear to be expedient."

The ADVOCATE GENERAL said that he understood the President to say that the retention of the Proviso in Article 8 of the Section would probably jeopardize the whole Bill.

The PRESIDENT assented. The Governor General would, he thought, probably anticipate the annulment of the Bill by the Secretary of State by refusing his sanction to it.

Mr. ROBERTSON said that the Bengal Act gave the power now claimed by the Bank of Bombay; but the Secretary of State had recently condemned the permission granted to the Bank of Bengal by the Government of India of drawing on England for the accommodation of customers. The matter had been again referred to the Home Government upon a remonstrance of the Directors, but no reply had as yet been received. The Honorable Member then read an extract from a Despatch from the Secretary of State to the Government of India, and proceeded to remark that the business which the Bank wished and intended to transact under the power claimed, should it be granted to them, differed altogether from a general exchange business, and it was hoped that the remonstrance of the Directors of the Bank of Bengal would be favorably received. In order, however, to prevent any possible distortion of the Clause into a sanction of drafts to an unlimited amount for any one who happened to be a constituent in the Agency Department, he would move the insertion after the word "Department" in line 30, of the words "for the remittance of funds realized by them, acting as Agents in the manner aforesaid" the omission of the words "remitting funds to," and the change of the word "meet" into "meeting" in line 32 of the Clause.

The ADVOCATE GENERAL said that if the observations of the Secretary of State read by the Honorable Mr. Robertson applied to provisions precisely similar to those which it was now sought to enact in favor of the Bank of Bombay, he thought that the retention of such a provision would certainly jeopardize the Bill.

Mr. INVERARITY moved that the words from "and provided" in line 24 to the end of the Clause be omitted.

Mr. ROBERTSON begged that the alterations proposed by him might be put as amendments on this motion.

This was done and the Council divided—

Ayes—6.

Hon^{ble} Mr. TRISTRAM,
Honorable Mr. RUSTOMJEE J. JEJEEBHOY,
Honorable Mr. JUGONNATH SUNKERSETT,
Honorable Mr. PREMABHAI HEMABHAI,
Honorable Mr. ROBERTSON.
Honorable Mr. SCOTT.

Noes—2.

Honorable Mr. INVERARITY,
Honorable Mr. LEWIS.

The alterations proposed by Mr. Robertson were therefore carried.

It was then put by the PRESIDENT that the Clause as amended stand part of the Bill.

Carried.

Mr. ROBERTSON said that the word “such” appeared to have been used by mistake for “all” in lines 12, 13, and 15 of Section IV.

The PRESIDENT said that on reading over the Section, the words “other than such President” appeared to him superfluous.

Mr. INVERARITY said that the whole Section was very awkwardly worded, and moved that the words following “Director” in the 9th line be omitted and the following words inserted :—
“present shall be Vice-President for the time being, and shall preside at general meetings of the Proprietors and at meetings of the Directors, and in all cases of an equal division of votes at meetings either of Proprietors or of Directors; the President or Vice-President shall have a casting vote in addition to any vote or votes he may be entitled to give in his own right or as a proxy.”

This was put and carried.

Mr. TRISTRAM said that he wished to introduce after the word “Bank” in the 7th line of Section XLV. the words “and for the remuneration of the Directors.” No such provision was found in the Bengal Act, but the reason of that was that as the Directors were in the receipt of remuneration before the Act was passed, no enactment was necessary to give it to them.

The PRESIDENT said that the amendment was so material that notice ought to have been given of it.

Mr. ROBERTSON said the provision had been contained in Schedule B of the original Draft, but it had been struck out by the Select Committee, as it was thought by them that the matter was one for regulation by a bye-law rather than by a legislative enactment.

Mr. SCOTT said he thought that the proper place to introduce the word would be after the word “Bank” in the 14th line.

Mr. TRISTRAM said he had no objection, and would alter his motion accordingly.

Mr. INVERARITY said that under the Section as it stood, Proprietors could pass resolutions for managing the affairs of the Bank, and in this power that of voting remuneration to the Directors must, he thought, be included.

The ADVOCATE GENERAL said he did not think that such a power was given to the Proprietors by the Section as it stood. Voting remuneration to the Directors could hardly be held, he thought, to come within the scope of a resolution for regulating the direction of the affairs of the Bank.

Mr. TRISTRAM suggested that the Standing Orders be suspended and the subject of his amendment discussed.

The PRESIDENT said that as the motion involved a substantial amendment and material change in the management of the Bank, he could not suspend the Standing Orders, and the amendment could not be put without notice, but the Honorable Member's proposal would serve as a notice under which it might be moved at the next meeting of the Council.

The further consideration of the Report of the Select Committee was therefore adjourned.

Mr. ROBERTSON said that the Bench of Justices had not yet had time to consider the provisions of the "Bill to provide for the management of the Vehar Water-works." He would move that the first reading be adjourned until the next meeting of the Council.

Carried.

The Council then proceeded to consider the report of the Select Committee on a "Bill to amend Act XV. of 1858 for the levy of Port-dues in the Port of Aden."

Mr. ROBERTSON said that the Select Committee had introduced a higher scale of dues leviable in the Port of Aden in order that all contingencies might be met, but it was not of course binding on Government to levy the highest dues allowed by the Bill, which was only intended to fix a maximum limit. The scale would in practice be fixed so as to meet the expenses of the Port and no more.

The several Sections of the Bill were then considered and agreed to, and Mr. ROBERTSON moved that the Bill be read a second time and passed.

Carried.

The Bill was then read a second time, and the PRESIDENT adjourned the Council to Wednesday the 11th instant, at 2 p.m.

By order of His Excellency the Governor in Council,

R. WEST,

Officiating Under-Secretary to Government.

Bombay Castle, 4th March 1863.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

THE following amended Bill, which it is intended to introduce into the Council of the Governor of Bombay for the purpose of making Laws and Regulations, is, together with the Statement of Objects and Reasons accompanying it, published for general information :—

A Bill to enlarge the Jurisdiction of the Court of Small Causes of Kurrachee, and to facilitate the transaction of business therein.

WHEREAS a Court of Small Causes has been constituted at Kurrachee, in the Province of Sind, under the provisions of Act XLIII. of 1860. And whereas it is expedient to enlarge the jurisdiction thereof and to facilitate the transaction of business therein. It is enacted as follows :—

Preamble.

I. After the passing of this Act, the Court of Small Causes of Kurrachee, in the Province of Sind, in addition to the jurisdiction which it now exercises under Act XLIII. of 1860, shall have cognizance of all suits of the nature specified in Section 3 of the said Act, if at the time of the institution of any such suit, the defendant shall be carrying on any business or work for gain by his manager, agent, or servant within the local limits of the jurisdiction of the said Court, and if the cause of action shall have accrued in dealings or transactions with such defendant through such manager, agent, or servant or his predecessor in such management, agency or service ; provided that service of any summons to a defendant made on his manager, agent, or servant shall not be deemed good service unless such service shall have been specially ordered by the said Court on the application of the plaintiff.

II. It shall be competent to the said Court to receive as evidence and to act

upon any affidavits or written statements made on solemn affirmation which may be adduced by any party to any suit instituted in the said Court in support of or resistance to any interlocutory motion or application before it.

III. The affidavits or written statements aforesaid may be sworn or affirmed before such Officer or person as the said Court may appoint for that purpose, and the Officer or person so appointed is hereby empowered to administer all such oaths and affirmations.

IV. There may be appointed by the Deputy Clerks may be Court subject to the approval of Government, one or more Deputies to the Clerk of the said Court as occasion may require, and such Deputy Clerks may perform all or any of the duties of the Clerk of the Court as the Court may direct.

V. This Act shall be taken and read as a part of Act XLIII. of 1860.

VI. It shall be lawful for the Governor in Council of Bombay by notification published in the Bombay Government Gazette, to extend all or any of the provisions of this Act to any Court of Small Causes now constituted or which may hereafter be constituted under Act XLIII. of 1860.

STATEMENT OF OBJECTS AND REASONS.

His Excellency the Governor General having declined to give his assent to the Bill passed by the Governor in Council of Bombay for enlarging the Jurisdiction of the Small Cause Court at Kurrachee on the grounds (1) that the 1st Section gave to the Court jurisdiction over Principals having Agents within the jurisdiction of the Court "not only in respect of matters connected with the Agency of such Agents but also in respect of other matters of such Principals," and (2) because under the second Section affidavits instead of being admissible in support or resistance of interlocutory motions only, would become admissible for all purposes, the present Bill has been drafted with a view to obviate these objections while securing the advantages originally contemplated.

(Signed) J. D. INVERARITY.

Bombay, 4th March 1863.

By order of His Excellency the Governor in Council,

R. WEST,

Officiating Under-Secretary to Government.