



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

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*Published by Authority.*

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SATURDAY, 28<sup>TH</sup> MARCH 1863.

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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 25th March 1863.

*PRESENT:—*

His Excellency Sir H. B. E. FRERE, K. C. B., Governor of Bombay, Presiding.

The Honorable Mr. W. E. FRERE,

The Honorable Mr. J. D. INVERARITY,

The Honorable the ADVOCATE GENERAL,

The Honorable Mr. H. L. ANDERSON,

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, and

The Honorable Mr. M. H. SCOTT.

The Council proceeded to consider the Report of the Select Committee on a " Bill to enlarge the jurisdiction of the Court of Small Causes of Kurrachee and to facilitate the transaction of business therein."

The several Sections of the Bill having been considered and agreed to, it was then, on the motion of Mr. INVERARITY, read a second time and passed.

The Council then proceeded with the consideration of the Report of the Select Committee on a " Bill for the regulation of Public Conveyances in the Town, Suburbs and Harbour of Bombay."

Mr. TRISTRAM, pursuant to notice, moved the insertion after Section II. of an additional Section as follows :—

“ No attendant of any public land conveyance shall ply for hire or demand or receive any fare for the conveyance of any passenger, unless he shall have received a license from the Commissioner of Police, and a metal badge bearing the number of such license, which badge he shall be bound to wear on a conspicuous part of his person at all times when he may be so plying for hire or pursuing his occupation as such attendant, and if any attendant who shall not have received a license shall demand or receive any money from any passenger, or if any licensed attendant shall fail to wear the badge aforesaid as in this Section directed, he shall for each such offence be punishable on conviction before a Police Magistrate, with a fine not exceeding Rupees Twenty, and in default of payment of such fine, shall be liable to simple imprisonment for a period not exceeding one month.”

Mr. FRERE said he wished to inquire whether the Honorable member had any thing to say in support of the proposed amendment. The subject had been fully discussed in the Select Committee, and they had come to the conclusion that the plan now proposed would work mischievously by diminishing the responsibility of the owners of conveyances. As these owners were bound to produce the drivers they employed, he saw no practical object that could be attained by the introduction of the additional Section.

Mr. TRISTRAM said that he had made the suggestion at the last meeting of the Council, thinking it likely that such a Section as that which he now proposed would be of use in imposing a check on the disorderly habits and manners of the drivers of hack carriages in Bombay. If they were required to obtain a license, and to wear a badge, there would, he thought, be an immediate and marked improvement in their competency and behaviour. At present nothing was more common than to see mere boys in the charge of such vehicles engaged in conveying parties of drunken sailors to the imminent risk of their passengers and the public in general. Such a state of things, he thought called for some remedy, and the object of the amendment was to supply it. Every person who wished to become a driver would have to present himself before the Commissioner of Police; and before a badge was granted to him, his competency and character might be subjected to the requisite tests, or at least partially determined. If any offence too should be committed by a driver, his badge would furnish a means of immediate identification through which he might at once be brought to justice; while the process of summoning first the licensee, and then calling upon him to produce the driver, was so roundabout and tedious, that it must almost necessarily lead to frequent defeats of justice.

Mr. ANDERSON said that he concurred generally with what had fallen from the Honorable member. With reference to the Honorable Mr. Frere's remarks he would observe, that the amendment was brought forward, not in substitution of any provision of the Bill as it stood, but in addition to its provisions. He thought it would be a very useful addition. The Bill prescribed a number for every conveyance, but it frequently happened that when an offence had been committed by a driver, he on parting with his passenger at once drove off without giving time for the number of his vehicle to be taken. The number on the vehicle was no doubt necessary, but the additional safeguard of the badge was also most desirable. He could not in fact conceive what reasonable objection could be offered to the amendment.

The ADVOCATE GENERAL said that the Honorable Mr. Tristram's amendment went, he thought, considerably further than had been intended. It prescribed not only a badge, but a license for every driver. The owners of hack carriages would thus be restricted in their choice of drivers to a certain small set of persons licensed by the Commissioner of Police. This, he thought, would be to inflict on them an unnecessary hardship and loss. The badge he considered unobjectionable; but he saw no necessity for requiring drivers to obtain a license. If that portion of the amendment were struck out, he would vote for the remainder.

Mr. SCOTT said that if the Clause were confined to prescribing that a badge be worn, that he thought would be unobjectionable. It had been thought however by the Select Committee that Section XIII. of the Bill provided all that was necessary.

Mr. FRERE said that the amendment, by imposing on the owners of hack vehicles the necessity of employing licensed drivers only, would necessarily relieve the former of some portion of their responsibility. With regard to the Honorable Mr. Anderson's remarks as to Buggy drivers mounting their vehicles and disappearing with the rapidity of lightning, he thought

such a phenomenon was a very rare one; but to meet the contingency, the numbers painted on the back of hack carriages might be in figures six inches long.

The PRESIDENT said that he thought the objects of the Bill would certainly be materially promoted by imposing on all drivers of hack carriages the necessity of wearing a badge. Persons were frequently found in charge of conveyances, who were unfit for the business; and the means provided in the Bill as it stood for bringing those guilty of offences to justice would be slow and troublesome. It would first be necessary to lose a part of a day in summoning the licensee of the vehicle. The licensee would be called on to produce the driver. He might come forward with the excuse that the driver was not to be found; and thus obtain by exercise of a little ingenuity, repeated postponements of the case. It would be preferable he thought that a means should exist for bringing the offender at once before the Magistrate, and obtaining an immediate adjudication. There was some doubt whether Section XIII. gave power to insist on the wearing of badges, or the employment of competent drivers only. Drivers, he thought, might simply be registered according to the number of their badges, and could thus be found without delay whenever wanted.

Mr. ROBERTSON said he thought the provision a very useful one. Prevention was better than cure, and the knowledge that he might immediately be called to account would prevent a driver in many instances from committing any offence at all.

The question was then put that the Section proposed by the Honorable Mr. Tristram be inserted.

The Council divided:—

*Ayes*—6.

*Noes*—4.

The Honorable Mr. INVERARITY,  
The Honorable Mr. ANDERSON,  
The Honorable Mr. TRISTRAM,  
The Honorable Mr. RUSTOMJEE JAMSETJEE  
JEJEEBHoy,  
The Honorable Mr. JUGONNATH SUNKERSETT,  
The Honorable Mr. ROBERTSON.

The Honorable Mr. FRERE,  
The Honorable Mr. LEWIS,  
The Honorable Mr. PREMABHAI HEMABHAI,  
The Honorable Mr. SCOTT.

The amendment therefore was carried.

On the question that the Section thus introduced, stand part of the Bill, Mr. FRERE said that if the amendment were necessary at all, it would have been better that some additions should have been made to it. He would move the following alterations; the substitution of the word "dress" for "person" in the 5th line of the Section; the insertion of the words "and badge" after the word "license" in the 7th line. The insertion in the 9th line after the word "directed," of the words "or if he shall permit any other person to wear his badge;" and the addition at the end of the Clause of the words "provided that every person other than the licensed attendant who wears the badge is presumed to wear it with the licensed attendant's permission."

Mr. ROBERTSON said that with reference to this proviso, it appeared to him that as it had been made unlawful by the former part of the Section for a licensed driver to permit any other person to wear his badge, any further enactment on that point was unnecessary.

Mr. PREMABHAI HEMABHAI said that if no one was to drive a hack carriage except a licensed driver with a badge, he wished to inquire who was to take charge of such a vehicle if any accident happened to the driver.

After some further discussion, the question was put that the proviso be added to the Section; and the Council divided:—

*Ayes*—6.

*Noes*—4.

The Honorable Mr. FRERE,  
The Honorable Mr. LEWIS,  
The Honorable Mr. TRISTRAM,  
The Honorable Mr. RUSTOMJEE JAMSETJEE  
JEJEEBHoy,  
The Honorable Mr. JUGONNATH SUNKERSETT,  
The Honorable Mr. SCOTT.

The Honorable Mr. INVERARITY,  
The Honorable Mr. ANDERSON,  
The Honorable Mr. PREMABHAI HEMABHAI,  
The Honorable Mr. ROBERTSON.

The amendment therefore was carried.

The other amendments proposed by Mr FRERE were carried without a division.

The ADVOCATE GENERAL said that he might perhaps be allowed to remark on the difficulty imposed upon the owners of hack carriages by binding them to employ only licensed drivers. His Excellency the President had said that the license and the badge should go together, but it would be very easy he thought without licensing the driver to insert in the register of badges the name and address of the Buggy owner by whom he was employed.

The PRESIDENT said that he might recall the Honorable member's attention to the principle upon which, in England, hack vehicles and their drivers were separately licensed and registered. It often happened that a driver was not present when wanted by the owner of the vehicle which he usually drove. In such a case, the vehicle was sent out in the charge of another licensed driver. It had been found practically impossible to keep the same licensed drivers, and the same licensed vehicles always together, while no real inconvenience had been found to arise from the separate licensing of the two, either in London or in the other large cities of Europe. The time for starting this discussion, he might remind the Honorable member, was passed, but it was still competent to him to move any amendment which he thought necessary.

The ADVOCATE GENERAL said that he did not wish to move any amendment.

Mr. ROBERTSON said that at the last meeting of the Council, a question had arisen upon the discussion of Section XVII., of the propriety of requiring a plate or board bearing a list of fares to be attached to every licensed vehicle. On looking over the Bill however he found that the best place for the introduction of such a provision was in Section II., and he begged to move the insertion after the word "only" in the 19th line of that Section of the words ;—

"Nor unless a board or plate inscribed with such list of rates of fare, and affixed in such manner as the Commissioner of Police, or Master Attendant, may respectively direct, be attached to such conveyance."

And after the word "thereon" in the 23rd line, of the words "or without such list of rates of fare being attached thereto." Strangers arriving in Bombay, as he had said at the last meeting of the Council, were not aware in general either of the proper rates of fare or of the means of ascertaining them provided by the law. It was therefore desirable he thought that a short abstract of the fares should be attached to every carriage.

Mr. FRERE said he did not intend to oppose the amendment if the Honorable member thought fit to press it. It might be a question how much copper plate or timber would be required, and how far the hack carriages would be encumbered, by sign boards of such dimensions as to contain a list of all the fares of Bombay. But this he was willing to leave for the consideration of the Honorable member.

Mr. ROBERTSON said that it was not intended that any great number of fares should be exhibited in this way, their number and other particulars would be left to the discretion of the Police Commissioner, who would doubtless guard against pushing a useful measure to an absurd extreme. Lists of rates were he believed attached to hack carriages in London and Paris; and found to answer a very useful purpose.

The amendments were then put and carried.

Mr. FRERE, pursuant to notice, moved the amendment of Section VI. by the addition thereto of the words "Provided that nothing in Section II. shall be held to prevent cargo boats licensed under Act VI. of 1863 from carrying with their cargo so many passengers for hire as the Chief Officers of Customs may in the license permit." He said that the Commissioner of Customs had drawn his attention to the fact, that Act VI. of 1863, which had been passed while this Bill was under preparation, conferred certain powers on the Commissioner of Customs with which the provisions of the Bill might possibly clash. The Commissioner had also informed him that cargo boats frequently conveyed numbers of pilgrims from the shore to the vessels by which they were to proceed to their destination, without at the time carrying any cargo. He would therefore wish that the words "with their cargo" should be struck out from his proposed amendment.

This was done, and the amendment thus altered was put and carried.

Mr. ROBERTSON moved that the words "either rigorous or" be omitted from line 12 of Section IX. and from other Clauses in which imprisonment is prescribed as the commutation of a fine. At the last discussion of this Bill, the Honorable member in charge of it had said

that no amendment ought to be brought forward without a formal and timely notice. He thought that the same rule applied to the Bill itself; and that had time for consideration been given, the severe penalties prescribed as the commutation of fines could not have been carried. It was a harsh, or at any rate a doubtful policy, to inflict rigorous imprisonment as the commutation of a fine in any such cases as were likely to arise under this Act.

The amendment was then put and carried.

Mr. PREMABHAI HEMABHAI then moved the omission of the words "or negligently" in line 3 of Section XXVIII., and the addition to the same Section of the words "but if he negligently injures the same he shall only be liable to pay to the owner of the public conveyance compensation for the injury."

Mr. FRERE said that he must oppose this amendment. Wilful negligence by which any damage was occasioned to a vehicle, as the driver was not at liberty to refuse any passenger, must be guarded against by a provision at least as stringent as that of Section XXVIII.

The amendment was then put, and the Council divided:—

*Ayes—1*

The Honorable Mr. PREMABHAI HEMABHAI.

*Noes—9*

The Honorable Mr. FRERE,  
The Honorable Mr. INVERARITY,  
The Honorable Mr. LEWIS,  
The Honorable Mr. ANDERSON,  
The Honorable Mr. TRISTRAM,  
The Honorable Mr. RUSTOMJEE JAMSETJEE  
JEJEEBHoy,  
The Honorable Mr. JUGONNATH SUNKERSETT,  
The Honorable Mr. SCOTT,  
The Honorable Mr. ROBERTSON.

The amendment therefore was lost.

Mr. JUGONNATH SUNKERSETT said that the penalty of rigorous imprisonment for six months prescribed by Section XXII. in default of payment of compensation was excessive. He would move that it be reduced to two months.

Mr. FRERE said that a very poor man might destroy a very handsome carriage; and it would not do that because he possessed no property he should go about with a consciousness that he might get off comparatively scot free, no matter what amount of damage he had done.

Mr. TRISTRAM said that the drivers of Bombay were notorious for their incapacity and recklessness, and it was necessary to impose some check upon their utterly careless driving. A man who had committed the offence prescribed in Section XXII. would justly be liable to a severe penalty; and if he could not pay in purse, he ought to pay in person.

The amendment was then put, and the Council divided.

*Ayes—2*

The Honorable Mr. JUGONNATH SUNKERSETT,  
The Honorable Mr. ROBERTSON.

*Noes—8*

The Honorable Mr. FRERE,  
The Honorable Mr. INVERARITY,  
The Honorable Mr. LEWIS,  
The Honorable Mr. ANDERSON,  
The Honorable Mr. TRISTRAM,  
The Honorable Mr. RUSTOMJEE JAMSETJEE  
JEJEEBHoy,  
The Honorable Mr. PREMABHAI HEMABHAI,  
The Honorable Mr. SCOTT.

The amendment therefore was lost.

The Bill was then ordered to be reprinted, and its further consideration was adjourned to the next meeting of the Council.

The PRESIDENT said that the subject next in the Orders of the Day was a "Bill for the prevention of adulteration of Cotton, and the better suppression of Fraud in the Cotton Trade in the Presidency of Bombay." He had at that moment had placed in his hand a petition against

the Bill from several merchants of Bombay. He had also received yesterday evening a letter from the Secretary to the Chamber of Commerce, accompanied by several others, in which some Members of the Chamber had expressed their views on the subject of the Bill. These documents, as they had been received so late, had not been distributed, they might however be read and considered, as the several Sections to which they related came on for discussion. Before proceeding with the Bill however it would be as well, he thought, to bring forward the motion of the Honorable Mr. Premabhai Hemabhai, who wished the consideration of the Report to be postponed, as he had not received the Goozerathi translation of the Bill and of the Report of the Select Committee until last Monday, and consequently had not had time to make himself fully acquainted with them.

Mr. SCOTT said that he should not oppose the postponement, as he thought the greatest publicity and the fullest possible discussion of the measure were to be desired.

The PRESIDENT said that as the discussion was to be adjourned, the several amendments of which Honorable members had given notice might, if necessary, be sent to the Select Committee along with the Bill for consideration, and for any further report that they might deem requisite.

Mr. SCOTT said that he had gone carefully through the proposed amendments, and found that all the points raised in them had been considered by the Select Committee. He thought therefore no useful object would be attained by recommitting the Bill.

It was then put and carried, that the further consideration of the Report of the Select Committee be adjourned until the next meeting of the Council.

The Council then proceeded to consider the Report of the Select Committee on a "Bill to provide for the management of the Vihar Water Works."

Mr. PREMABHAI HEMABHAI said he had not been furnished with a translation of the Bill.

Mr. ROBERTSON said he begged to explain that in the Statement of Objects and Reasons it was directed that no translation of the Bill should be made. The Bill would hardly affect any portion of the native community of Bombay, except those classes to whom English was familiar; and its object was simply to give a legislative sanction to an agreement between Government and the Municipal Commissioners. He was not aware whether Mr. Premabhai Hemabhai was present at the first reading of the Bill. If he was present, he ought then to have moved for a translation, but the bill had now been before the public a considerable time, and as the Honorable member had taken no steps to secure a translation, he could not, he thought, expect the discussion to be postponed for that purpose.

The PRESIDENT said that the Honorable member had, he thought, a right to press for a translation of the Bill; its further consideration might be adjourned until a translation had been furnished.

It was then put and carried, that the further consideration of the report be adjourned until the next meeting of the Council.

Mr. ROBERTSON then moved the first reading of a "Bill for taking a Census of the Bombay Presidency." He said;—

"The reasons which have induced the Government to bring forward the Bill, the first reading of which I have the honour to move, are so fully set forth in the Statement of "Objects and Reasons," that I shall trouble the Council with only a very few remarks.

"An attempt to take a Census of Bombay and of the Districts of the Presidency, has on several occasions been made; but the results have always been most unsatisfactory. Whether from the apathy, ignorance, or prejudice of the people, or from all these causes combined, is uncertain. I however imagine that the idea of being numbered is always associated in the native mind with that of taxation, and that this may account for the opposition it has generally met with. I however imagine that by this time, the principles of taxation of the British Government are so well understood, that even the most ignorant would not suppose that we want, by taking a Census, to impose a poll-tax, whilst the great utility and advantage of an accurate Census must be apparent to all who give the subject the least consideration.

"For some years mortuary returns have been carefully kept, and valuable reports have been published by Drs. Leith and Haines in connexion with these; but it is evident that the information which has thus been obtained, cannot be applied and turned to account for the benefit of the people without accurate Census returns, as a basis on which to fix percentages,

and to enable us to decide whether the deaths in any locality are above the average, and to what causes this may be ascribed, whether from overcrowding of the population, or if restricted to particular castes, whether there may not be something in the habits of those castes which injuriously affects them. Indeed the beneficial results which may follow the deduction to be made from such returns based on a correct census are numerous, and will readily present themselves to reflecting minds. It seems needless therefore for me to enlarge on the subject, and I now beg to move that this Bill, called a "Bill for taking a Census of the Bombay Presidency" be read a first time."

It was then put and carried, that the Bill be read a first time; and on the motion of Mr. ROBERTSON, it was referred to a Select Committee, consisting of

The Honorable Mr. TRISTRAM,  
The Honorable Mr. JUGONNATH SUNKERSETT,  
The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHoy,  
And the MOVER,

with instructions to report at the next meeting of the Council.

The President then adjourned the Council to Monday, the 30th instant, at 11 A. M.

*By order of His Excellency the Governor in Council,*

R. WEST,

Officiating Under-Secretary to Government.

*Bombay, 25th March 1863.*