

THE



Bombay Government Gazette.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 15 of the Rules for the conduct of Business at Meetings of the Council of His Excellency the Governor of Bombay for making Laws and Regulations:—

Bill No. 7 of 1878.

A Bill to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.

WHEREAS by the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878, it was provided that so much of the said Act as relates to any rate or tax leviable by the Corporation other than Town Duties, should be deemed to have come into force on the first day of January 1878, and that the rest of the Act should come into force on the passing thereof; and doubts are entertained as to the meaning of the words "on the passing thereof," and as to the effect of the said provision in respect of the levy of Town Duties fixed by the Corporation under section one hundred and fifteen of the Bombay Municipal Act of 1872 for the year 1878, and it is expedient to remove such doubts;

And whereas owing to the assent of the
v.—27

Governor General to the said Act not having been published before the 1st July 1878, the provisions of Section 9 D of the Bombay Municipal Act of 1872, as amended by the said Act, were not in force during the first half of the year 1878, and doubts are entertained as to whether the list of persons qualified to be elected or appointed members of the Corporation and of persons qualified to vote at Rate-payers' elections could be prepared as required by that section, so as to have legal validity, but a list was nevertheless prepared and published by the Municipal Commissioner, and notice of such publication was given by him on the 2nd July 1878 in the manner intended by the said Section 9 D, and it is expedient to give legal validity to the list so prepared and published; It is enacted as follows:—

1. The following paragraph shall be and be deemed to have always been substituted for the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878 (namely):

“So much of this Act as relates to any rate or tax leviable by the Corporation other than Town Duties, shall be deemed to have come into force on the first day of January 1878; the rest of this Act shall come into force on the publication by the Governor of the assent of the Governor General thereto, but nothing in Section 63 shall be deemed to affect the levy of Town Duties during the year 1878 on the articles, and at the rates, prescribed and fixed by the Corporation under Section 115

of the Principal Act for the said year, and the Town Duties so fixed shall be the Town Duties leviable for the said year.”

2. The List of persons qualified to be elected or appointed

List of Voters, &c., prepared by the Municipal Commissioner during the first half of the year 1878 to be valid.

members of the Corporation and of persons qualified to vote at Rate-payers' elections prepared by the

Municipal Commissioner as aforesaid shall be deemed for all purposes of the Bombay Municipal Acts of 1872 and 1878 to have been duly prepared and published under Section 9 D of the Bombay Municipal Act of 1872 as amended by the Bombay Municipal Act Amendment and Continuance Act, 1878.

STATEMENT OF OBJECTS AND REASONS.

The circumstance that the assent of the Governor General to the Bombay Municipal Act Amendment and Continuance Act, 1878, was not published before the 1st July suggested at the time certain difficulties with regard to the coming elections of the Corporation and Town Council, but these, as I *explained in Council on the 20th July 1878, appeared (*i.e.) the Honourable Mr. Gibbs.) to be removed by the opinion of Counsel who considered that the Governor General's assent gave effect to the Act from the date on which it was read a third time and passed by the Governor in Council. The List of Voters, &c., which had been prepared and published by the Municipal Commissioner in accordance with the provisions of Section 9 D of the Amended Municipal Act, in anticipation of the publication of the Governor General's assent to the Act, would, under this view, have been legally valid.

But the Municipal Commissioner has recently informed Government that the notice of the publication of the List which he prepared did not appear in the local newspapers on the 1st July, as required by Section 9 D, but on the 2nd idem, and as this accident may possibly be held hereafter to invalidate the list and the elections and appointments which may be made in accordance with it, it has been thought advisable to have this Bill prepared for the purpose of placing the validity of the List beyond question.

As there is reason to think that the proper construction of the words “on the passing thereof” in para. 2, Section 1 of the Municipal Amendment Act is also not free from doubt, it is proposed to take the opportunity of amending that paragraph in accordance with what was no doubt the original intention of the Council when passing it.

A further question has arisen under the same paragraph as to whether its effect, with reference to Section 63 of the Municipal Amendment Act, is to abolish the Town Duty on metals from the date of the Act coming into force, or only from the date when the new rates which will be fixed by the Corporation under Section 115 of the Principal Act for next year according to the new Schedule B come into force. If the former be the case, no new rate could be imposed by the Corporation under Section 115 until the end of the year, and the Municipality would thus lose the revenue from the duty on metals without any compensating revenue on firewood, which is made liable to duty in the new schedule in lieu of metals. This is a position in which no doubt it was never intended to place the Municipality and it is therefore proposed to clear up this point also in this Bill.

23rd September 1878.

(Signed) J. GIBBS.

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

J. MONTEATH,

Poona, 23rd September 1878.

Acting Under Secretary to Government.