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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 Friday the 13th September 1878, at noon.

P R E S E N T :

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., C.I.E., Governor of Bombay, *Presiding*.

His Excellency the Honourable Sir CHARLES STAVELEY, K.C.B.

The Honourable J. GIBBS, C.S.I.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable Colonel W. C. ANDERSON.

The Honourable DOSABHOY FRAMJEE, C.S.I.

The Honourable SYUD HUSSAN EL EDROOS, C.S.I.

The Honourable M. BALFOUR.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable MORARJEE GOCULDASS, C.I.E.

Paper presented to the Council. The following paper was presented to the Council :—

Letter from the Secretary to the Government of India (Legislative Department), No. 1110, dated 10th August 1878, regarding the Cotton Frauds Bill which was read a third time and passed on the 3rd March 1877.

The Honourable Mr. Ashburner moved the first reading of Bill No. 3 of 1878—a Bill to provide for the levy of Fees for the use of Government Landing-places in the Port of Kurrachee. Mr. ASHBURNER said :—Your Excellency is aware that in the port of Kurrachee certain dues have for some years been collected, but hitherto there has been no legal sanction for this collection, and the object of this Bill is to legalize the collection, and also to provide for the expenditure of the money so collected. I beg to propose that the Bill be read a first time.

His Excellency the President put the motion to the vote, and it was carried unanimously.

The Bill read a first time and referred to a Select Committee.

The Bill was accordingly read a first time.

The Honourable Mr. Ashburner proposed that the following gentlemen be appointed a Select Committee to consider the Bill in detail and report to the Council within a week, viz., the Honourable Mr. Gibbs, the Honourable Colonel Anderson, the Honourable Mr. Morarjee Goculdass, the Honourable Mr. Syed Edroos, and the Mover.

The motion was adopted.

It was also resolved, on the motion of the Honourable Mr. Ashburner, that the Bill and the Select Committee's report should be translated into the Sindhi and Guzerathi languages.

The Honourable Mr. RAVENSCROFT :—Your Excellency, I beg to move the first reading of Bill No. 4 of 1878—"a Bill to amend the law for the prevention of adulteration of cotton and for the suppression of fraudulent practices in the cotton trade." It is unnecessary to go into the whole question of the Cotton Frauds Act at present, that matter having been fully discussed at the commencement of last year, when a Bill was passed and sent to the Government of India for approval. After some correspondence, in which one or two points in the Bill were objected to, especially with regard to the application of fees, the opinion of this Government was asked whether any objection was entertained to the omission of that provision. This Government explained that they had no objection to the omission proposed, and the Government of India recently sent a letter to this Government, stating that, if certain omissions were made, they were prepared to pass the Bill. In accordance with the suggestions made by the Government of India, the present Bill, No. 4 of 1878, has been drawn up. The only material portions of last year's Bill which have been omitted are those with reference to the application of fees and forfeitures. It was thought advisable by this Government to expend a portion of the fees in the general improvement of cotton cultivation in the Presidency, but this Government had no very strong opinion on the subject, and when the authorities on the other side of India took objection to that point, this Government was quite prepared to meet their view. The only other change is the insertion of the words "not belonging to the Government" after the word "cotton" in the 21st section, the object of which amendment is to avoid all possibility of conflict with Section 20 of the Sea Customs Act, 1878. With the exception of some verbal alterations, these are the only changes which have been made, and we have it stated that with these changes the Government of India are prepared to give their sanction to the Bill. With these remarks I beg the first place to move that the Bill be read a first time, and afterwards I shall ask that the standing orders may be suspended, so that the Bill may be passed through all its phases.

The Honourable Mr. BALFOUR said :—Your Excellency is aware that the renewal of this Bill is not regarded with satisfaction by the mercantile community of Bombay. Their opinions have lately been stated at length by the Honourable Mr. Lang, but the Bill was passed by this Honourable Council, and, subject to some slight alterations, it has since received the sanction of the Government of India. I therefore think that at this stage of the proceedings it would be merely a waste of time to raise any discussion on the principles of the Bill. I would however appeal to Your Excellency's known anxiety to foster the trade of the Presidency to limit the duration of the Bill, so that those interested in the Cotton trade may have an opportunity within a reasonable time of expressing their opinion of its working, and of showing whether it has proved a benefit or otherwise. When such a divergence of opinion exists, as in this case, between those theoretically and

those practically interested in cotton, it seems to me fair that the duration of a law passed for special purposes should be limited, and I would therefore venture to suggest that a clause be inserted limiting the operation of the Act to two years. I believe I am in order in making this suggestion although I have given no notice, as it does not in any way affect the principle of the Bill.

The Honourable MORARJEE GOCULDASS:—I regret very much that Government has thought it necessary to continue this Act, notwithstanding the continued protests of the mercantile community during the past ten years. I have been a persistent opponent of this Act for the past ten years, and I cannot therefore give a silent vote on this occasion. I do not propose to take up the time of the honourable members in repeating the arguments brought against the Bill by some of the previous members of this Council, all of which arguments still hold good. There is, however, one point to which I would call attention, which is the change that has taken place in the cotton trade, owing to the practice of pressing up-country. This practice prevents examination in Bombay at the time of shipment and the result is that a good portion of the cotton is sold in Bombay, under a guarantee given by the seller, that on reaching Liverpool it will come up to a certain standard of quality. Under these conditions, therefore, any adulteration would be only to the injury of, and at the expense of, the seller himself. All the tendency therefore of the changes which have taken place in the course of trade in the past few years, is to make any such Act more and more unnecessary. I would appeal, therefore, even at this late date, to honourable members to reconsider the principle of this Bill. The rice, indigo, cotton, jute, tea, sugar, silk, skin, wheat and seeds of Calcutta, and the indigo, cotton, skins, and sugar of Madras all flourish without Government protection; why should Bombay alone be taxed? Why cannot we have the same freedom in trade which the other parts of India enjoy? I go a step further. In the Manchester trade adulteration is notorious, and yet the British Government does not interfere. Do we not live under the same Government? Do not the same principles of trade apply here as there? With these few remarks, I am sorry I am unable to support the Bill.

His Excellency the PRESIDENT:—Does the honourable Mover wish to reply?

The Honourable Mr. RAVENSCROFT:—With regard to the Honourable Mr. Balfour's suggestion that the Bill should be passed for only three years, I think it is always advisable to avoid any extraordinary course of legislation if possible. The Legislature has always the power, at any period, provided an Act does not work satisfactorily, to bring in a short Act to amend or repeal it. I do not see why we should anticipate any change taking place in the circumstances and condition of the cotton trade in the next two or three years, but if it is found that the Act is not necessary, no doubt the Government of the day will take the matter into consideration. The Governor General having expressed his readiness to sanction the Bill with certain minor alterations, I do not think we can introduce an entirely new provision of this kind now.

The Honourable Mr. Ravenscroft's motion was then put to the vote and carried, the Honourables Mr. Balfour and Mr. Morarjee only voting against it.

The Bill read a first time.

The Bill having been read a first time,

The Honourable Mr. Ravenscroft next asked His Excellency the President to suspend the standing orders, to allow him to move the second and the third reading.

His Excellency the PRESIDENT:—Then, considering the circumstances of the case, I accede to the request to suspend the standing orders.

The Honourable Mr. RAVENSCROFT:—The standing orders having been suspended, I have now to propose that the Bill be read a second time.

The motion was carried, and the Bill was read a second time.

The Bill was next considered in detail. No amendments were made or suggested.

The Bill read a third time and passed.

The Bill was then, on the motion of the Honourable Mr. Ravenscroft, read a third time and passed.

The Honourable Mr. GIBBS:—I beg to move the first reading of Bill No. 5 of 1878,—

Mr. Gibbs moves the first reading of the Kurrachee Vaccination Bill (No. 5 of 1878).

A Bill to prohibit the practice of inoculation, and to make the vaccination of children in the town of Kurrachee compulsory. Some honourable members present will remember that a Bill similar to this was introduced by me into the

Legislative Council some time ago, and subsequently became an Act, by which compulsory vaccination was introduced into the town and island of Bombay, and the practice of inoculation put a stop to. From the reports we have received of the operation of that Act, I believe compulsory vaccination is working tolerably well in Bombay. The authorities in Sind, having unfortunately had to meet on several occasions rather severe epidemics of small-pox, took it into consideration whether a similar Act might not be passed for Sind, or some portion of it. The result of their inquiries and consultations is that they consider an Act somewhat similar to the one passed for Bombay might be introduced into the town of Kurrachee, and this present Bill has been drafted on the model of the Bombay Act and as drafted has been approved by the Commissioner and the medical officers in Sind. The matter is, of course, of very great importance, and I think the Council will consider with me that the Act should be very fully made public to the persons who are to be brought within its operation. The Government of India have approved of the penal clauses of the Bill, and the Secretary of State has expressed his opinion that there is no objection to the Bill in its present state. The notification of the decision of these two high authorities was received only the other day, and in consequence the Bill was only sent to the Commissioner in Sind to be translated into Sindhi on the 26th August. The Bill comes regularly before us for the first reading, but afterwards in referring it to a Select Committee, I think good time should be allowed them to report, because as yet the Bill has not been published to the public of Kurrachee, who I think should have full time to consider it and to make any suggestions they may wish, and their suggestions should be considered by the Select Committee.

The motion was adopted, and the Bill read a first time.

On the motion of the Honourable Mr. Gibbs, the Bill was referred to a Select Committee consisting of the Honourable Mr. Ashburner, the Honourable Mr. Ravenscroft, the Honourable Mr. Dosabhoj Framjee, the Honourable Mr. Morarjee Goculdass, and the

The Bill read a first time and referred to a Select Committee.

Mover, with instruction to report within two months; and it was ordered that the Bill and the report of the Select Committee be translated into Sindhi and Guzerathi.

His Excellency the PRESIDENT:—There is a supplementary motion, which the

Mr. Ashburner moves for permission to introduce a Bill for the relief of indebted ryots.

Honourable Mr. Ashburner will explain to the Council, regarding certain points of legislation with reference to the indebtedness of the ryots of the Deccan.

The Honourable Mr. ASHBURNER:—Your Excellency is aware that for some years past a certain proportion of the agricultural population of several districts of the Deccan have been in a very depressed state. The reasons for this were obscure. The Survey Department had given a fixed tenure, which had been hitherto unknown; had limited the Government rental of the soil to a very moderate share of the net produce; every available acre of waste land had been brought under cultivation, proving that agriculture was a profitable occupation; population had increased 30 or 40 per cent., showing that at least the necessities of life were abundant; but nevertheless the depressed condition of this class was an undoubted fact—it was obvious everywhere and was the subject of frequent reports by the Local Officers. It culminated about three years ago in riots in certain parts of the Ahmednagar and Poona districts. A Committee composed of representative men, European and Native, one member having been deputed by the Government of India, was appointed to investigate the causes of the discontent. They have made a very able and elaborate report, showing that the depression was mainly confined to those who were involved in debt, who composed about 25 per cent. of the population (I speak from memory), and was mainly due to abuses connected with the administration of justice, which gave the creditor an unfair advantage over his debtor and made it almost impossible for him to free himself from debt when once involved. The Committee made certain suggestions for the removal of those abuses which were embodied in a Bill we submitted for the consideration of the Governor General in Council. His Excellency approved generally of the proposed measure, but suggested that some of its provisions might be more conveniently dealt with by legislation in this Council. I should have preferred that the subject had been dealt with in one comprehensive Act, passed either in this Council or in that of the Government of India, but in deference to the wishes of the Supreme Government a Bill has been drafted which I now beg permission to introduce. Its principal objects are as follows:—1, to limit the rate of interest payable by agriculturists

to a reasonable amount; (2) to provide that all payments on account are carried to their credit; (3) to prohibit their being made liable to compound interest; (4) to extend to all classes of agriculturists the equitable Hindoo rule of "dam dupat"—this it is well known limits the amount of a debt to double the principal, but has hitherto been only applicable to Hindoos; (5) to limit the liability of agriculturists in respect to ancestral debts. It is not pretended that this measure will cure all the evils which afflict the Deccan ryot, or entirely protect an improvident man from the consequences of his own improvidence, but it will at least tend in that direction, and at least deprive the Sowkar of the unfair advantage he has hitherto had over his debtors.

The Honourable Mr. GIBBS:—If I understand the matter aright, the case stands thus:—After considering the Report of the Deccan Riots Commission proposals were sent from this Government to the Government of India, who came to the conclusion that it was desirable to legislate in the manner suggested, but that it was inadvisable, looking at the ordinary working of the two Councils, for them to legislate in such matters as this Council has it in its own power to legislate for. There were certain of the proposals made by this Government which would interfere with certain Acts of the Government of India passed subsequently to 1861, and those this Council had no right to interfere with. There were also matters which affected the jurisdiction of the High Court, and those, too, were beyond the power of this Council. This Government was of opinion that it would be advisable to pass one Bill including all the different topics of legislation; but the Government of India having considered the matter, and having carefully taken into account the position which the Legislative Council of India holds with regard to the Local Councils, are of opinion that it is advisable for them not to go beyond that portion of the jurisdiction for which it is absolutely necessary for them to legislate, and that the remaining proposals should be returned to this Government with the suggestion to introduce a Bill in its own Legislative Council. That Bill, I believe, is in course of being drafted, if it is not already drafted, and I apprehend the position this Council will find itself in will be that it will have to pass a Bill to supplement the Bill now before the Council of the Governor General. Neither Council takes upon itself the entire field of legislation which is considered necessary in consequence of the Report of the Deccan Riots Commission. There is one other observation I have to make though it is encroaching in a manner on the province of my honourable colleague (Mr. Ashburner). In connection with the supplement to the *Government Gazette* which was recently sent to each of us, containing several pages of questions regarding the famine, I have been making some inquiries. I mention this matter because I see from the last weekly report on the Vernacular Press that one of the Vernacular papers laments that the assessment on the land generally is so excessively high, and suggests to Government to have mercy on the ryots, and in future to be content with taking not more than one-fourth portion of the gross produce. Well, that is rather ridiculous, because Government have never, in any single case, taken so much as one-fourth. My honourable colleague (Mr. Ashburner) said he spoke from memory; but I have been making inquiries from the Honourable Colonel Anderson who has charge of the records of what is called the crop experiments, taken every year in all parts of the Presidency in order to try and find out what proportion the assessment actually bears to the gross produce of the land; and I believe it may be said that, assuming ordinary cultivation, the maximum portion of the gross produce taken as assessment is one-seventh and this is exceptional and the minimum is one-fortieth, or in isolated cases, for the common grains, even less. I think it is as well that these facts should be made known, because, as has been often observed, there is great misunderstanding on this subject of the Government assessment on the land. In a case chosen specially this year as being as poor and careless a form of cultivation as could be found—salt rice land in Kanara—the gross produce was valued at 13 rupees, while the assessment was 2½ rupees.

The permission asked for was given, and it was ordered that the Bill when drafted be published and translated into the Marathi, Guzerathi, and Kanarese languages.

His Excellency the President then adjourned the Council.

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

J. MONTEATH,

Acting Under Secretary to Government.

Poona, 13th September 1878.