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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the "Bill for the Licensing of Trades and Dealings in the Presidency of Bombay," and the Bill as amended by the Committee are, in accordance with Rule 25 of the Rules for the Conduct of Business at Meetings of the Council, published for general information:—

Report of the Select Committee appointed to consider Bill No. 1 of 1878, a "Bill for the Licensing of Trades and Dealings in the Presidency of Bombay."

The Select Committee appointed to report upon Bill No. 1 of 1878 (a Bill for the Licensing of Trades and Dealings in the Presidency of Bombay) beg to state that they approve of the Bill as now amended by them.

Numerous changes have been made in the structure, wording and arrangement of the clauses of the Bill, but the amendments effected are for the most part of slight importance and do not affect the principles of the measure. In considering the Bill the Select Committee have compared with its provisions those of the Bill introduced into the Legislative Council of the Lieutenant-Governor of Bengal, and have in many instances adopted the phraseology and provisions of the Bengal Bill. It will only be necessary to notice in this Report the more important alterations made.

To prevent any difficulty which might possibly arise, a clause has been added to Section 4 conferring upon Government the power to decide which is the principal place of business of a person carrying on trade at more places than one.

In the sections relating to the preparation and publication of the list of persons to be licensed power has been given to the Collector to amend the list annually instead of preparing a new list every year and the adoption of measures to ensure a wider publication of the list has been directed.

In the sections bearing on the hearing of objections some verbal changes have been made, and the section permitting an appeal from an order of the Collector has been omitted, the Select Committee being of opinion that in matters of this nature the decision of the Collector should be final and no appeal from it should be allowed.

Section 17 of the Bill as introduced has been modified by the addition of words rendering every person who refuses to produce on demand his licence, and every person who when required to do so fails to submit a statement of the persons resident or working in his house or shop, liable to a fine of Rs. 100.

Sections 20 and 21 of the Bill as introduced, authorising the adoption of a certain procedure in Municipalities, have been omitted as the Select Committee considers that it is not desirable that their provisions should be made applicable in this Presidency. A paragraph has however been added to Section 20 conferring for certain purposes under the Bill the powers of a Collector on the Municipal Commissioner of Bombay.

In Section 24 the number of subjects on which Government may make rules has been increased, and the provision requiring that the previous sanction of the Governor General in Council should be obtained to any orders or rules made under this section has been omitted.

The structure and arrangements of the schedules have been completely altered. In Schedule A has been entered solely a general list of the persons required to take out licenses, whilst Schedule B contains a list of the fees payable for licenses, which are divided into fifteen classes ranging from Rs. 200 to Rs. 2.

(Signed) L. R. ASHBURNER.
 " J. GIBBS.
 " E. W. RAVENSCROFT.
 " DOSABHOY FRAMJEE.
 " W. LANG.

31st January 1878.

I have assented to the alterations in the Bill as amended in Select Committee, but I desire to record my dissent from the principle of the Bill for the reasons expressed by me at the first reading.

(Signed) W. LANG.

31st January 1878.

Bill No. 1 of 1878.

A Bill for the licensing of trades, dealings and industries in the Presidency of Bombay.

WHEREAS, in order to provide means for defraying the public expenditure from time to time incurred and to be incurred for the relief and prevention of famine, it is necessary to effect a permanent increase of the provincial revenue; and it is therefore expedient that persons carrying on trades, dealings and industries in the Presidency of Bombay should take out licenses and pay for the same; it is hereby enacted as follows:—

Preliminary.

Short title. 1. This Act may be called "The Bombay License Act, 1878."

Extent. It extends to the whole of the Presidency of Bombay; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

2. In this Act "Collector" means the chief officer in charge of the revenue-administration of a district, and in the city of Bombay, the Collector of Bombay.

Licenses.

3. Every person who, on or after the first day of April 1878, takes out Annual licenses to be taken out, falls under any one or more of the heads specified in the Schedule A, and carries on (whether on behalf of himself or any other person) his trade, dealing or industry shall take out a license under this Act, and shall pay for the same the annual fee mentioned in Schedule B as payable by persons of the class to which he shall be determined under the provisions hereinafter contained to belong: Provided that no person shall be required to take out more than one license or to pay more than one fee annually.

4. Every license under this Act shall be granted by the Collector of the district or place in which the person requiring such license carries on his trade, dealing or industry: provided that, if such person carries on such trade, dealing or industry in more than one district or place, the license shall be granted by the Collector of the district or place in which his principal place of business is situate.

Government shall have power to declare in cases of doubts, what shall for the purposes of this Act be deemed to be such principal place of business.

5. The Collector shall, from time to time, determine under which of the classes mentioned in Schedule B every person to whom a license may be granted by him as aforesaid shall be charged.

Particulars to be specified in the license. 6. Every such license shall specify—

- (a) the date of the grant thereof;
- (b) the name, father's name, caste, (or in the case of a firm, the name under which such firm carries on its trade, dealings or industry) and the trade, dealing or industry of the person to whom the license is granted;
- (c) the class to which such person belongs;
- (d) the fee paid for the license;
- (e) the place or places where such person intends to carry on his trade, dealing or industry for the ensuing year; and
- (f) the term for which the license shall remain in force,

and shall be received in evidence as *prima facie* proof of all matters contained therein.

7. Every such license shall have effect and continue in force from the day of the date thereof till the first day of January next after the date of the grant thereof.

8. Every person to whom any such license has been granted, and who desires to continue to carry on his trade, dealing or industry after the expiration thereof, shall take out a fresh license for that purpose, for the following year, to expire on the day appointed in the last preceding section, and shall renew the same from year to year so long as he desires to continue to carry on such trade, dealing or industry.

List of Persons to be licensed.

9. As soon as may be after the first day of April 1878 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons to be licensed under this Act in the district or place under his jurisdiction. Such list shall state—

- (a) the trade, dealing or industry of each of the persons therein named;

(b) the class under which he is charged; and

(c) the fee to be paid for his license.

Such list shall be in such language as Government may direct, but a copy or translation thereof in the language of the district, shall be filed in the office of the Collector, and shall be open to public inspection at all reasonable times without any payment.

The Collector may, if he thinks fit, instead of preparing a fresh list each year, amend the previous year's list, which shall then be taken to be the list for the new year.

10. The list or such part or parts thereof as the Collector thinks fit shall be published in the principal bazaars, and at all police stations of all towns and at some conspicuous place in all villages concerned, together with a notification that if any person mentioned in such list continues his trade, dealing or industry, he must pay the amount specified in the list as payable by him and take out a license in the year 1878 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year, and that if any person not mentioned in such list who falls under any of the heads specified in Schedule A continues his trade, dealing or industry he must apply to the Collector for a license within the said period.

Hearing of Objections.

11. Any person objecting to the class under which he is charged may, within thirty days after such publication, or within such further time as the Collector may in each case think fit, apply by petition to the Collector in order to establish his right to have his name transferred to another class, or altogether omitted from the list.

12. The Collector shall fix a day for the hearing of the petition, and on the day so fixed, or on such subsequent day as he may from time to time direct, shall hear the same and pass such order thereon as he thinks fit:

Provided that if, in his judgment, the petitioner is able to show that the fee which has been charged exceeds two per cent. upon his annual net earnings, he shall transfer his name to another class or direct that it be altogether omitted from the list, as shall appear to him necessary.

13. For the purpose of enabling him to determine under which class a petitioner should be charged, the Collector may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure :

Provided that the Collector shall not call for any evidence except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

14. Subject to the general orders of Government, the Collector may in his discretion remit the whole or any part of the fee payable under this Act by any person who has carried on his trade, dealing or industry for a portion of the year only.

Penalties.

15. If, after expiry of the period mentioned in the notification published under section ten, any person who falls under any of the heads specified in Schedule A carries on his trade, dealing or industry without having applied for or taken out a license he shall be liable, by order of the Collector, to pay a fine not exceeding thrice the amount payable by him in respect of such license, exclusive of the amount so payable ; and on receipt of such payment the Collector shall grant him a license.

All sums due under this section and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

16. Every person required by this Act to take out a license who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, and

Every owner or occupier of a house or shop who without reasonable excuse fails to forward a statement to the Collector when required so to do under Section 22,

Shall on conviction before a Magistrate, be punished for each such offence with fine which may extend to one hundred rupees.

But no person shall be proceeded against for any such neglect, refusal or failure except at the instance of the Collector.

Prosecution to be at instance of Collector.

Miscellaneous.

17. Receivers and managers appointed by any Court in British India shall be chargeable under this Act in respect of any trade, dealing or industry of which the income is officially in their possession or under their control.

18. When any trustee, guardian, administrator, curator, committee or agent is charged under this Act in such capacity, or when any receiver or manager appointed by any Court is charged under this Act, every person so charged may, from time to time, out of the money coming to his possession as such trustee, guardian, administrator, curator, committee or agent, or as such receiver or manager, retain so much as is sufficient to pay the fee charged.

Every such person is hereby indemnified for every retention and payment made in pursuance of this Act.

19. All fees and penalties paid or recovered under this Act shall be carried to the credit of the Government of Bombay.

The net amount so credited shall be applied, in such manner as the Governor General in Council thinks fit, for the purpose of defraying expenditure incurred or to be incurred for the relief and prevention of famine in any of the territories administered by the said Government, or, if the Governor General in Council so directs, in any other part of British India.

20. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the orders of the Collector, be exercised and performed by an Assistant or Deputy Collector, or by a Mámlatdár or Mábálkari, or such other officer as Government from time to time appoints in this behalf.

In the city of Bombay the Municipal Commissioner shall, so far as regards letters-out of conveyances, horses or cattle and owners of conveyances, horses or cattle plying for hire in

Powers of Collector under Act may be exercised by other officers.

Municipal Commissioner of Bombay to be a Collector for certain purposes.

the said city, exercise all the powers and perform all the duties of the Collector under this Act; and shall pay to Government the annual net proceeds of the fees so levied by him; provided that in the case of all such persons in the said city it shall not be necessary to publish a list or notification as required by section ten, and that the fees payable by them may be recovered by the Municipal Commissioner at the same time or times and in the same manner as any tax payable by them to the Municipality is recovered.

21. Every person shall be legally bound to furnish information to any officer exercising any of the powers of a Collector under this Act when required by him to do so.

22. The Collector may, by a notice in writing, require the owner or occupier of any house or shop to forward to him a statement in writing signed by such owner or occupier of the names of all persons residing in such house or working or having any concern in such shop at the date of the notice and of their respective callings or occupations.

23. No order passed by a Collector under this Act shall be open to appeal.

Power to exempt and make rules.

24. Government may, from time to time,

(a) exempt any local area, or any persons or class of persons, from the operation of this Act;

(b) exempt from the operation of this Act any persons whose respective net annual earnings are less than such sum as Government may, from time to time, direct in this behalf;

(c) make rules consistent with this Act, (1) for defining more precisely the classes of persons named in Schedule A as liable under this Act; (2) for regulating the time and manner of collecting the fees charged under this Act; (3) for providing in any case or class of cases for serving notices on persons charged under this Act; (4) for modifying the fees chargeable to members of the same family when living and working together; and (5) generally for the guidance of officers in matters connected with the enforcement of this Act.

SCHEDULE A.

(See Section 3.)

Persons required to take out Licenses under this Act.

Companies registered under the Indian Companies Act, 1866.
Bankers.
Commission Agents.
Brokers.
Manufacturers.
Contractors.
Hotel-keepers.
Money-changers.

Ship or boat-owners.
Letters out of conveyances, horses, or cattle.
Owners of conveyances, horses or cattle, plying for hire.
And all persons carrying on trades, dealings or industries of any kind whatsoever.

SCHEDULE B.

(See Section 3.)

Fees payable by persons required to take out Licenses under this Act.

Class	I.	Rs.	200
"	II.	"	150
"	III.	"	100
"	IV.	"	80
"	V.	"	60
"	VI.	"	40
"	VII.	"	30
"	VIII.	"	25

Class	IX.	Rs.	20
"	X.	"	15
"	XI.	"	10
"	XII.	"	7
"	XIII.	"	5
"	XIV.	"	3
"	XV.	"	2

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

J. NUGENT,

Under Secretary to Government.

Bombay Castle, 31st January 1878.