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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 Saturday, the 20th July 1878, at noon.

P R E S E N T :

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., 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.

Papers presented to the Council. The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 646 dated 14th March 1878, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill for the licensing of trades, dealings and industries in the Presidency of Bombay.
2. Letter from the Secretary to the Government of India, Legislative Department, No. 995 dated 5th July 1878, states that the Governor General cannot give his assent to the General Abkari Bill in its present form. Signifies His Excellency's reasons for withholding his assent, and suggests that the Bill may be amended.

The Honourable Mr. ASHBURNER introduced Bill No. 2 of 1878 (a Bill to consolidate and amend the Abkari Law of the Presidency of Bombay).

Mr. Ashburner introduces the new Presidency Abkari Bill. Mr. ASHBURNER said:—Your Excellency has just heard that His Excellency the Viceroy has declared his willingness to

consent to the Bill already passed by this Council with three trifling exceptions. The objections are (1) that the rights of Cursetjee Ardasir and Jehanghir Ardasir to Abkari rights in the Island of Salsette, which were said to be granted to them in the early part of this century, were not reserved in that Bill; (2) that a slight amendment of the definition of intoxicating drugs was necessary so as to make it quite clear that opium is not included; (3) that Section 12 should be omitted and a clause added to the Bill providing that "nothing contained in this Act shall be held to affect any enactment passed by the Governor General in Council since the 16th November 1861," the date on which the Indian Councils Act came into force. Lastly, the Viceroy suggests that the last paragraph of Section 67 would be *ultra vires* of this Council, inasmuch as it derogated from the jurisdiction conferred by the charter of the Bombay High Court, and a clause has been introduced expressly saving the jurisdiction of that Court. All the amendments suggested by His Excellency the Viceroy have been attended to, and I have now to ask for leave to suspend the standing rules before moving the first reading of the Bill.

The Standing Rules suspended and the Bill read a first and second time and considered in detail.

His Excellency the PRESIDENT having formally suspended the standing rules,

The Honourable Mr. ASHBURNER moved that the Bill be read a first time, and the motion was adopted.

It was also resolved on the motion of the Honourable Mr. ASHBURNER that the Bill should be read a second time, and then the Council proceeded to consider the Bill in detail. This was accordingly done.

The Honourable Mr. ASHBURNER pointed out that Section 3 (clause 9) defining the term 'intoxicating drug,' had been amended by the addition of the following words:—"but does not include opium or anything included within the meaning of that word as defined in the Indian Opium Act, 1878."

The Honourable Mr. ASHBURNER proposed an amendment to Section 14, by the excision of the last clause, and the substitution of the following:—"Except under the authority and subject to the terms and conditions of a licence to be granted by the Collector in this behalf, or under the provisions of Section 24." Mr. Ashburner added that the object of this amendment was to prevent any doubt arising as to what was the exact meaning of the section in connection with the one which followed it, and part of the amendment which he had to propose was to strike out Section 15, which defined certain functions of the Collector, but omitted that of granting a licence. There was no change proposed in the meaning of the Act, but the amendment would make more clear what was intended. It might be argued in the absence of this amendment that *expressio minus est exclusio alterius*, and that the Collector had therefore no power to grant licences.

The amendment was carried.

The Honourable Mr. ASHBURNER said Section 66 was an amended section added in accordance with the wishes of His Excellency the Viceroy, and he had to propose the adoption of an additional section, to follow Section 66, which had been drafted as follows:—"Any holder of a village in the Island of Salsette other than the villages mentioned in the last preceding section, who shall apply to the Governor in Council at any time within three months after this Act comes into force, and shall establish to the satisfaction of the Governor in Council that he holds his said village under an indenture containing the same terms as to exemption from taxation or assessment, or terms to the like effect, as those contained in the said indenture of the 25th January 1819, shall be entitled to be dealt with in the same manner as the holders of the villages named in the last preceding section, and in any such case the provisions of the last preceding section shall apply as if such holder's village had been specifically named therein." The object of this amendment was obvious. His Excellency the Viceroy had requested that the rights of Cursetjee Ardasir and Jehangir Ardasir should be reserved, and as it was found there were certain other holders who held land on grants of a similar nature, the added section would permit of their rights being reserved in the same manner as those of Jehangir Ardasir.

The Honourable the ADVOCATE-GENERAL wished to say that the petition of Cursetjee Ardasir and Jehangir Ardasir was not before the Council when they considered the previous Bill, but was sent to His Excellency the Viceroy after the Bill had been passed by the Council. At the time the Council passed the Act they were not in any way infringing the rights of any claimants who had preferred any claim to Government or brought their claims before the Council.

The Honourable Mr. DOSSABHOY FRAMJEE :—This new section will remove all grounds of complaint.

The amendment was adopted.

The Bill read a third time and passed.

On the motion of the Honourable Mr. Ashburner the Bill was then read a third time and passed.

The Honourable Mr. GIBBS said before the Council separated, perhaps His Excellency the President would allow him to make an explanation to honourable members. He believed the first notice for this meeting which was issued to honourable members included in the list of business an Act to amend, or rather to legalise a portion of, the new Bombay Municipal Act, which received the assent of the Governor General on the 19th of June last, and from the second notice paper that item was omitted. The reason was that Government received an emergent letter from Mr. Grant, the Municipal Commissioner, pointing out that the Solicitors to the Municipality had informed him that, owing to the assent of the Governor General not having been published before the 1st July, there would be difficulties in several ways with regard to the carrying out of the new Municipal Act Amendment Act, especially with regard to the coming election of members of the Corporation and Town Council. He (Mr. Gibbs) thereupon took an opportunity of speaking to Mr. Naylor (Legal Remembrancer) and knowing that a meeting of the Council was about to be held, he asked Mr. Naylor to draft a short Bill to amend the blots which had been discovered by the Solicitors to the Municipality. But in the meantime further legal advice was taken by the Municipality and the Advocate General was consulted, and Government received another letter stating that Mr. Marriott and Mr. Latham in consultation had arrived at the conclusion that there was no occasion to pass a fresh Act as the Solicitors of the Municipality had advised. The opinion of the Advocate General was very clear on the point that His Excellency the Viceroy's assent gave effect to the Act from the date on which it was passed by the Council, which was the 8th February last, and therefore there was no occasion for providing against any difficulty likely to arise in the carrying out of the Act.

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, 20th July 1878.