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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. 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.

Whereas it is expedient to amend the law for the prevention of adulteration of cotton, and for the suppression of fraudulent practices in the cotton trade; It is enacted as follows:—

Preliminary.

1. This Act may be cited as "The
Short Title. Bombay Cotton
 Frauds Act, 1878."

It extends to the whole of the Presidency of Bombay except Aden.

2. Bombay Act IX. of 1863 is hereby repealed.

All appointments made, orders issued, notifications published, and rules prescribed under the said Act, and now in force, shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published, and prescribed hereunder.

And all proceedings which have been commenced under the said Act shall be deemed to have been commenced under this Act, and shall hereafter be conducted

in accordance with the provisions of this Act, provided that no persons shall be liable for any offence committed before the passing of this Act to a higher penalty than he would have been liable to if this Act had never been passed.

3. In this Act, unless there be some-
Interpretation Sec- thing repugnant in
tion. the subject or context

- (1) "Bale" includes a dockra or any other package of cotton;

- (2) "Press" includes every kind of machinery used for the purpose of compressing cotton;

- "Foreign export." (3) "Foreign export" means export out of British India ;

- (4) "British India" means the territories for the time being vested in Her

Majesty by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*) other than the Settlement of Prince of Wales Island, Singapore, and Malacca;

(5) "Imprisonment" means imprisonment of either description within the meaning of the Indian Penal Code.

Appointment and duties of Officers.

4. The Governor in Council may appoint such and so many Inspectors of Cotton officers, to be styled "Inspectors of Cotton," as shall from time to time appear expedient;

the said Inspectors shall be subordinate, in the city of Bombay, to the Commissioner of Customs, and in all other parts of the Presidency to the Collector of the district in which they hold their appointments, or in which they are at the time employed, and shall be liable to suspension or dismissal by order of the Governor in Council for neglect, or misconduct, in the discharge of their duties.

5. It shall be the duty of the Inspectors of Cotton to suppress the use of presses which have not been licensed under this Act, and to examine cotton offered for compression, or exposed or intended for sale.

In the execution of the said duty it shall be lawful for an Inspector of Cotton at all times to enter any building, or enclosure, within which he has reason to believe that any press is at work, or is prepared for work, or that the packing of cotton in dockras is being carried on.

6. It shall be lawful for an Inspector of Cotton to seize and detain any cotton, wherever the same may be, which he has reason to believe is liable to confiscation under this Act, and to give the same into the custody of any police officer :

every police officer shall be bound to assist an Inspector of Cotton in seizing and detaining such cotton;

but it shall not be competent to any Inspector of Cotton, unless under a Magistrate's search-warrant, to open any bale which has been finally pressed for foreign export.

7. Every Inspector who shall seize and detain any cotton under this Act shall, within seven days from the date of such seizure and detention, apply for and obtain a summons from a Presidency Magistrate in the city of Bombay if such seizure

and detention shall have taken place in that city, but if elsewhere then from a first or second class Magistrate, directed to the person in whose possession the same was found, and requiring him, upon a day therein named, to show cause why such cotton should not be confiscated. If such Inspector shall not apply for and obtain such summons within the time aforesaid, such cotton shall be returned to the person in whose possession the same was found, and shall not be liable to re-seizure or detention.

8. Every Inspector of Cotton shall have such number of subordinates as the Governor in Council from time to time directs, and it shall be lawful for such subordinates to exercise such of the powers conferred by this Act on an Inspector as the Inspector to whom they are subordinate may from time to time by writing under his hand depute them to exercise.

Press Licenses.

9. No press shall be used for the purpose of compressing cotton without a license obtained in the manner hereinafter prescribed.

10. Every application for a license for working a press shall be made to the Collector of the district within which such press is to be worked, or to such other officer as the Governor in Council directs, and shall be accompanied by a written statement of the power which it is intended to employ in working the said press.

The Collector or other officer may, if he is satisfied that the applicant is in possession of the press for which the license is applied for, grant him a license; the license so granted shall expire on the 1st day of January of the next ensuing year, but subject to such rules as may from time to time be prescribed by the Governor in Council in this behalf, shall be renewable from year to year on the first day of January; and upon the removal to another locality of a press included in any license, or renewed license, so granted, or upon change of the power employed for working the same, it shall be necessary for the licensee to apply to the Collector or other officer for a new license.

The Collector or other officer may, for reasons which he shall give to the applicant in writing under his signature, refuse to grant or to renew any such license.

11. Every such license may be for
 License what to con- one or more presses
 tain. and shall specify :

(a) the number of presses for which it
 is granted,

(b) the locality in which the said presses
 are situated,

(c) the power to be employed for work-
 ing the said presses ;

and for every such license a fee shall be
 levied at the rate set
 License Fee. forth in the Schedule
 to this Act annexed.

12. It shall be incumbent on every ap-
 plicant for any such
 Press-marks. license to lodge with

the Collector, or other officer aforesaid, a
 pattern on cloth, parchment, or paper of
 the press-mark which it is intended to use
 at the press for which a license is applied
 for.

Every press-mark shall consist of some
 distinctive mark, not less than one foot
 square in size, or of the applicant's name,
 or of the name of his firm or company, in
 letters not less than one inch and a half
 long, which letters, for any press in the
 city of Bombay, must be in the English
 language.

Every press-license granted under this
 Act shall be deemed to be also a license
 for the use, at the press for which it is
 granted, of the press-mark of which a pat-
 tern has been lodged under this section
 with the Collector or other officer ; and the
 licensee shall be bound to mark the wrapper
 underlying the fastenings or bands of every
 bale compressed by the said press, or cause
 the same to be marked, with the said press-
 mark.

13. Any Magistrate or Court before
 whom, or which, a
 License may be can- licensee is convicted of
 celled or suspended. an offence under Sec-
 tion seventeen of this Act, or before whom
 a licensee, or any servant or agent of a
 licensee, is convicted of offering obstruc-
 tion to an Inspector of Cotton, or to any
 of his subordinates, in the execution of
 their duty, may cancel such licensee's
 license, or direct that it be suspended for
 such period as he or it deems fit.

Penalties, Offences and Prosecutions.

14 If, upon the hearing of the sum-
 mons issued under
 Penalties when cotton Section seven of this
 is found to be fraudu- Act, the Magistrate
 lently adulterated or or Court be satisfied
 mixed. that any cotton seized and detained under
 the provisions of Section six of this Act—

(a) has been fraudulently or dishonestly
 adulterated or deteriorated or increas-
 ed in weight by mixing therewith seed,
 dirt, stones or other foreign matter, or
 by exposing it to dew or by any other
 means, or

(b) that such cotton is a mixture fraudu-
 lently or dishonestly made of cleaned
 and uncleaned cotton (commonly called
 kapás), or of different varieties or
 qualities in one bale,

the Magistrate or Court shall order—

that such cotton be confiscated and
 destroyed, or

that such cotton be confiscated, clean-
 ed and sold or

that such cotton be cleaned by or
 under the direction of the Inspector of
 Cotton, and that such Inspector do return
 such cotton when so cleaned to the person
 in whose possession the same was found,
 upon payment by him of the expenses of
 cleaning such cotton together with such
 fine as such Magistrate or Court shall
 direct ; and that in default of such payment
 such cotton be sold, and the proceeds
 thereof, after deducting such fine and the
 expenses of cleaning and sale, be paid to
 such person as aforesaid.

15. Whoever knowingly uses, or at-
 tempts to use, any
 Penalty for using a press for the com-
 press without a license. pression of cotton, or
 causes, or permits the same to be used,
 without previously obtaining a license, or a
 renewed or new license, in accordance
 with the provisions of this Act, or after
 any such license has been refused, or can-
 celled, or during the period for which the
 same is suspended, shall be punished with
 fine which may be extended to one thousand
 rupees.

16. Any person who knowingly counter-
 feits any press-mark
 Penalty for counter- which any other per-
 feiting press-mark, son has been licensed
 under this Act to use, or

who marks any bale, or causes or per-
 mits the same to be
 and for using unli- marked, with a press-
 censed press-mark. mark which he is not
 licensed to use,

shall be punished with imprisonment for
 a term which may extend to two years, or
 with fine, or with both.

17. Any licensee who neglects to mark
 any bale compressed
 Penalty for neglect at his press with the
 to mark bale with press- press-mark which he
 mark. is licensed to use, or

to cause the same to be so marked, shall be punished for every such neglect with fine which may extend to one hundred rupees.

18. All proceedings and offences under this Act shall be cognizable, subject to the provisions of any law for the time being in force for the trial of offences, by a Presidency Magistrate in the city of Bombay, and elsewhere by any Criminal Court exercising powers not inferior to those of a Second Class Magistrate: provided always that no person shall be proceeded against on account of any such offence except by summons on information laid by an Inspector of Cotton or some other person.

19. It shall not be necessary in any proceeding for any offence under this Act to prove an intent to defraud any particular person.

20. The provisions of Sections sixty-four to seventy, both inclusive, of the Indian Penal Code, shall apply to all fines imposed under this Act; and all such fines shall be recoverable in the city of Bombay in the manner prescribed by Act IV. of 1877 (The Presidency Magistrates Act), or any other Act for the time being in force regulating the Police of the city of Bombay.

Miscellaneous.

21. A fee at such rate, not exceeding two annas, as the Government from time to time direct by

notification in the *Bombay Government Gazette*, shall be levied upon every bale of cotton not belonging to the Government exported from any part of the Presidency of Bombay to any port or place other than a port or place in British India.

22. Nothing in this Act shall affect the civil rights of any person in any manner interested in any cotton confiscated or ordered to be cleaned and sold under the provisions of this Act; but every such person shall have the same right of action as if this Act had not been passed, and all fines, cleaning and sale charges paid, and legal and other expenses and losses incurred and sustained in consequence of the seizure and detention of such cotton and consequent thereon, shall be part of the damages recoverable in such action.

SCHEDULE (see Section 11).

Table of Fees leviable for Press-Licenses.

For every press for which the license is granted which is to be worked by manual labour alone	Rs. 1	0	0
Do. do. by animal or manual labour alone	...	...	...
Do. do. by steam or other power	5	0	0

STATEMENT OF OBJECTS AND REASONS.

The Governor General having stated that he is prepared to give his assent to the "Bill to amend the law for the prevention of adulteration of cotton and for the suppression of fraudulent practices in the Cotton Trade," which was read a third time and passed by the Council of the Governor of Bombay for making Laws and Regulations on the 3rd March 1877, if the Bill is re-enacted without the provision in Section 22 regarding the application of fines, fees and forfeitures, this Bill has been prepared with a view to remove the objection entertained by the Governor General.

Opportunity has been taken to insert, at the suggestion of the Government of India, the words "not belonging to the Government" in Section 21 of the old Bill after the word "cotton," so as to avoid all possibility of conflict with Section 20 of the Sea Customs Act, 1878, and some verbal alterations have been made in consequence of the passing of the Presidency Magistrates Act (No. IV. of 1877).

28th August 1878.

(Signed) E. W. RAVENSCROFT.

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

J. MONTEATH,

Acting Under-Secretary to Government,

Poona, 29th August 1878.