



Bombay Government Gazette.

Published by Authority.

THURSDAY, 25TH NOVEMBER 1897.

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.

(To be translated into Maráthi, Gujaráthi and Kánarése and the translations to be published in the "Bombay Government Gazette." The dates of publication to be reported.)

The following Bill, together with the Statement of Objects and Reasons accompanying it, is published in accordance with Rule 22 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. III of 1897.

A Bill to amend the Bombay District Police Act, 1890.

WHEREAS it is expedient to amend the Bombay District Police Act, 1890, in manner hereinafter appearing: It is enacted as follows:—

1. For section 1 of the Bombay District Police Act, 1890, which is hereinafter referred to as the said Act, there shall be substituted the following, viz. :—

"1. (1) This Act may be cited as the Bombay District Police Act, 1890.

Short title.

"(2) It extends to the whole of the Presidency of Bombay, except the City of Bombay, Sind and Aden, but the

Extent.

Governor in Council may at any time by notification in the *Bombay Government Gazette* extend it, or any part of it, to either Sind or Aden."

2. In section 2 of the said Act for the word and figure "sub-section (1)" there shall be substituted the following, viz. :—

Amendment of section 2. "sub-section (1)"

"sub-section (2)."

3. For sub-section (2) of section 25 of the said Act there shall be substituted the following, viz. :—

Amendment of sub-section 2 of section 25.

"(2) The cost of such additional Police shall, if the Governor in Council so direct, be defrayed either wholly or partly by a tax imposed on all or any of the persons hereinbelow mentioned, or by a rate assessed on the property of the inhabitants, according to its income or value, and charged

Cost thereof.

(a) either generally on all persons who

(i) are inhabitants of the local area to which such notification applies, or

(ii) whether themselves inhabitants of such area or not, are, within the meaning of the Bombay Land Revenue Code, 1879, holders of, or otherwise interested in, any land situate within such area,

(b) or specially on any of such persons or on any particular section or sections or class or classes of such persons, and the Governor in Council may direct the proportions in which such tax or rate shall be charged."

4. After sub-section (2) of section 25 of the said Act there

Insertion of new sub-section (3) in section 25.

shall be inserted the following new sub-section, to be numbered (3), viz. :—

“(3) It shall be lawful for the Governor in Council to extend the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.”

5. The existing sub-section (3) of section 25 of the Act

Amendment of sub-section (3) of section 25.

shall be numbered as sub-section (4), and

before the words “The said rate” at the beginning thereof there shall be inserted the following, viz. :—

“The said tax shall be imposed or.”

6. After new sub-section (4) of section 25 of the said

Insertion of new sub-section (5) in section 25.

Act there shall be inserted the following

new sub-section, viz. :—

“(5) It shall be lawful for the Governor in Council, by order, to exempt any persons, or class or section of such persons as aforesaid from liability to bear any portion of such cost.”

7. After section 25 of the said Act there shall be inserted the following new

New section added.

section, viz. :—

Compensation for injury caused by an unlawful assembly how recoverable.

“25A. (1) The Magistrate of the District may—

(a) after such enquiry as he deems necessary,

(i) determine the amount of the compensation which, in his opinion, should be paid to any person or persons, in respect of any loss or damage caused to any property, or in respect of death or grievous hurt caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly, and

(ii) declare the local area the inhabitants of which have, in his opinion, by their conduct caused or contributed to the holding of such assembly;

(b) with the previous sanction of the Governor in Council require the Collector to recover the amount so determined in such proportions as the Magistrate of the District may with the like sanction direct from all or any persons who

(i) are inhabitants of the local area so declared as aforesaid, or

(ii) whether themselves inhabitants of such area or not, are, within the meaning of the Bombay Land Revenue Code, 1879, holders of, or otherwise interested in, land situate within such area,

Bo. Act V of 1879.

or from any section or sections, or class or classes of such persons;

(c) if such area is a Municipal district, at his discretion require the Municipality to assess and recover such amount by a tax or by a rate which the Municipality shall impose and levy from such persons and in such proportions in accordance with such directions ; and

(d) require the Collector or the Municipality, as the case may be, to award or apportion all or any moneys so recovered to any person or among all or any persons whom the Magistrate of the District considers entitled to compensation in respect of the loss or damage or death or grievous hurt aforesaid.

(2) It shall be lawful for the Governor in Council, by order, to exempt any persons or class or section of such persons as aforesaid from liability to pay any portion of such compensation.

(3) Every declaration, assessment, direction and order made by the Magistrate of the District under sub-section (1) shall be subject to revision by the Governor in Council or by such officer as he from time to time empowers in this behalf, but save as aforesaid shall be final.”

Amendment of section 26. 8. (1) In sub-section (1) of section 26 of the said Act,—

(a) after the word "Every" there shall be inserted the following, viz. :—
"tax imposed or";

(b) for the words "last preceding section," there shall be substituted the following, viz. :—

"the last two preceding sections";
and

(c) at the end of the said sub-section (1) there shall be added the following, viz. :—

"Provided always that, in default of such recovery, it shall be lawful for the Government to direct the Collector to recover such tax or rate in the manner prescribed in the following sub-section, as if it were a tax imposed or a rate assessed by him."

(2) In sub-section (2) of the same section,—

(a) after the word "Every" there shall be inserted the following, viz. :—
"tax imposed or"; and

(b) after the words "rate assessed," there shall be inserted the following, viz. :—

"or amount recoverable."

9. After section 26 of the said Act, New section added. there shall be inserted the following new section, viz. :—

"26A. On the last three preceding sections coming into force in Sind, the provisions, so far as they are inconsistent therewith, of sections 16 and 17 of the Bombay District Police Act, 1867, shall be deemed to have been repealed in that Province."

Bo. Act VII
of 1897.

10. In sub-section (1) of section 42 of the said Act, after the words "singing of songs," there shall be inserted the following, viz. :—

"playing of music."

11. In clause (a) of sub-section (1) of section 48 of the said Act, after the words "conduct of," there shall be inserted the following, viz. :—

"and behaviour or action of persons constituting."

STATEMENT OF OBJECTS AND REASONS.

The modification of section 1 of Bombay Act IV of 1890 proposed in section 1 of the Bill is merely technical.

2. The re-arrangement of section 1 of the Bombay District Police Act, 1890, necessitates the amendment of section 2 of the Act proposed in section 2 of the Bill.

3. Under section 25 of the Bombay District Police Act, 1890, the cost of additional police employed in any local area which appears to be in a disturbed or dangerous state can be thrown only on the inhabitants or a particular section of the inhabitants of such local area. By section 3 of this Bill it is proposed to extend this liability to the holders of land situate in such area even though they themselves may reside elsewhere. Having regard to the personal influence which the ownership of landed property confers, and the protection which such property receives from the State, it is only reasonable that such holders of land should take their fair share of responsibility for the preservation of the public peace, whether they are inhabitants of a disturbed area or not. The section as drafted will also make the provision as to the manner in which the cost of the additional police may be defrayed clearer.

4. A reference to English law makes it clear that the words "a rate charged on the inhabitants," in section 25 (2) of the Act, mean "a rate assessed on the property of the inhabitants, according to its income or value." In other words a person is said to be *rateable* when, by virtue of his ownership or occupation of property, he is liable to pay rates. In order to remove any doubt which might possibly be caused by the abbreviated

phrase "a rate charged on the inhabitants," an addition has been made by the amendment in section 3 of the Bill in order to give the proper and legal meaning of the words. At the same time, in order to make it clear that a person, answerable otherwise to contribute towards the cost of additional police, shall not escape such liability merely by reason of the fact that he possesses no rateable property, the word "tax" has been inserted as an alternative to "rate" wherever necessary.

5. It appears that under the present Act Government would have power, if they wished to distribute the payment of the cost of additional police over a term longer than that for which the police are actually employed. In certain circumstances it might evidently prove desirable to grant the persons charged with such cost an extended period within which to make payment. In order, therefore, to remove all doubt on the subject it is proposed by section 4 of the Bill to declare expressly that Government have this power.

6. By section 6 of the Bill it is proposed, on the analogy of section 15 (5) of Act V of 1861 (for the Regulation of Police) as amended by Act VIII of 1895, to empower Government to exempt particular persons (who would otherwise be liable) from any liability in respect of the rate charged for the cost of additional police.

A similar provision is inserted in the Act by sub-section (2) of new section 25A. in section 7 of the Bill, with regard to the exemption of particular persons from liability to pay any portion of the compensation for loss or damage (cf. section 15A (3) of Act V of 1861 as amended).

7. By section 7 of the Bill it is proposed to add a new section to the Act, enabling the Magistrate of the District, with the sanction of the Governor in Council, to direct the recovery from the landholders and inhabitants of any local area of compensation for loss or damage caused to any property, or in respect of injury to life or limb caused to any person, by anything done in the prosecution of the common object of an unlawful assembly the holding of which is due to the conduct of the inhabitants of such area. The section as drafted would vest in the Magistrate of the District discretion to require in a Municipal district recovery by Municipal agency from such persons and in such proportions as such Magistrate with the previous sanction of the Governor in Council may direct.

Sub-section (3) of new section 25A. will render all the proceedings which the Magistrate of the District may take thereunder subject to revision by the Governor in Council or by such officer as he from time to time empowers in this behalf.

8. Sub-sections (1) (b) and (2) of section 8 and also section 9 provide for certain amendments of the Act rendered necessary by the changes in the first three sections of the Bill. Sub-section (1) (c) of section 8 refers to the recovery of the cost of additional police within a municipal area. When the local area in which the cost of additional police is to be recovered is outside a Municipal district, the Act provides in section 26 (2) that the rate shall be recoverable by the Collector as if it were an arrear of land revenue. On the other hand if such local area is a Municipal district it is provided in section 26 (1) of the Act that the rate "shall be recovered by such Municipality from each person answerable therefor in the same manner as a Municipal tax due by him." In other words, such rate in a Municipal district is recoverable from a defaulter either under sections 386 and 387, Criminal Procedure Code (cf. section 84 of Bombay Act VI of 1873), in respect of his moveable property or by civil suit in respect of his immovable property. The mode of recovery allowed to the Collector in non-municipal areas is the more expeditious and convenient. It is proposed therefore to afford equal facilities for recovering such rates within a Municipal district by providing in section 8 (1)(c) of the Bill that, in default of recovery by Municipal agency, it shall be lawful for the Government to direct the Collector to recover such rate as an arrear of land revenue.

9. Sub-section (1) of section 42 of the Act empowers the Magistracy to issue certain orders, "whenever and for such time as it shall appear necessary," to prevent a disturbance of the public peace. It empowers the prohibition of the public utterance of cries and singing of songs. It is thought desirable that words should be inserted expressly extending the provisions of that sub-section to "the playing of music," although no doubt is entertained that the playing of music could be dealt with under section 44 of the Act on an emergency actually arising. For the preservation of the public peace, it seems desirable that the requisite orders relating to music should sometimes be issued even when there is no special emergency calling for them; and it is proposed, therefore, by section 10 of the Bill, to expressly confer on the Magistracy the same power with regard to the playing of music as is already conferred by section 42 with regard to the public utterance of cries and the singing of songs.

10. The necessity for the amendment of section 48 of the Act proposed in section 11 of the Bill is shown by the decision of the High Court dated the 10th August, 1896, in *Imp. vs. Hukumpuri Balva Gosavi and others*.

(Signed) E. C. K. OLLIVANT.

Bombay, 23rd November 1897.

By order of His Excellency the Right Honourable the Governor,

S. L. BATCHELOR,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay, 24th November 1897.