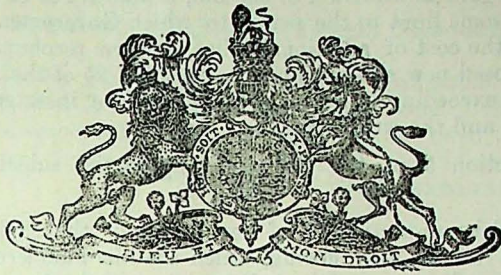


THE



Bombay Government Gazette.

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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 Marathi, Gujarati and Kanarese and the translations to be published in the "Bombay Government Gazette." The dates of publication to be reported.)

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the Bill to amend the Bombay District Police Act, 1890, and the Bill as amended by the Select Committee are, in accordance with Rule 35 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. III of 1897
(a Bill to amend the Bombay District Police Act, 1890.)*

We, the members of the Select Committee appointed to consider Bill No. III of 1897 (a Bill to amend the Bombay District Police Act, 1890), have the honour to submit the following report.

2. With regard to section 1 of the Bill, it may in case of the proposed extension of the Act to either Sind or Aden be found necessary to exclude certain tracts in those places from the operation of the Act. We have, therefore, inserted in sub-section (2) of the proposed new Section 1 of the Act the words "any portion of" between the word "to" and the word "either".

3. We recommend that new sub-section (2) of section 25 of the Act proposed in section 3 of the Bill should be altered so as to avoid the appearance of indicating an intention of imposing a liability on individuals. We are also of opinion that both in regard to section 25 of the Act and the following section 25A proposed in section 7 of the Bill, "inhabitants" should be defined by means of an explanation at the end, as provided in section 4 of Act VIII of 1895. We have, therefore, redrafted the proposed new sub-section (2) of section 25 so as to give effect to the above recommendations.

4. With regard to section 4 of the Bill, it appears to us desirable that there should be some limit to the period to which Government may extend the payment of the cost of additional police, and we recommend, therefore, that in the proposed new sub-section (3) of section 25 of the Act the words "for a term not exceeding in any case five years" be inserted between the word "extend" and the word "the".

5. For section 5 of the Bill we propose the substitution of the following:—

"5. For sub-section (3) of section 25 of the said Act the following, which shall be numbered sub-section (4), shall be substituted, viz. :

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

'(4) The said tax shall be imposed, or the said rate shall be assessed, except in a Municipal district, by the Collector at his discretion. If the local area in which any such tax is to be imposed or any such rate is to be assessed is a Municipal district, the amount of the charge shall be paid by the Municipality from the Municipal Fund or the rate shall be assessed by the Municipality conformably to the direction given by Government under sub-section (2)'."

6. In new section 25A proposed in section 7 of the Bill we consider that it should be provided that a claim under this section must be made within one month of the infliction of the injury, and we have inserted a new sub-section (3) to give effect to this view. We think that, following the Government of India Act, the sanction of Government should precede not only the levy, but the determination, of the amount and the declaration of the local area affected. We are of opinion also that, in the recovery of compensation, individuals should be excluded and that in consequence of the definition of "inhabitants" in the explanation appearing at the end of section 3 of the Bill as amended by us, sub-clause (ii) of clause (b) with the preceding word "or" of sub-section (1) of this section should be omitted. We further suggest that the words "or class or section of such persons as aforesaid" which appear in sub-section (2) of this section and in the amendment proposed in the preceding section 6 of the Bill should be omitted.

7. We recommend that the word "Government" be substituted for the expression "Governor in Council" throughout the Bill so as to bring the wording into harmony with that of the principal Act.

8. We approve of the remaining sections of the Bill and recommend that the Bill as now altered by us be passed into law.

9. The Bill was published in Maráthi, Gujaráti and Kánarese in the *Bombay Government Gazette* on the 16th December 1897. We have ordered that the Bill, as now amended, and this report be similarly translated and published.

(Signed) E. C. K. OLLIVANT,
 (") J. MONTEATH,
 (") A. S. MORIARTY,
 (") W. H. CROWE,
 (") N. G. CHANDAVARKAR
 (subject to my minute of dissent),
 (") D. S. GARUD
 (subject to my minute of dissent).

Dissent of the Honourable Mr. Narayan Ganesh Chandavarkar.

I cannot agree to the proposal to include in the word *inhabitants* landlords who do not reside in the local area where an additional Police force is quartered. In other respects I approve of the Bill as amended.

(Signed) N. G. CHANDAVARKAR.

Dissent of the Honourable Mr. Dhondo Shamrao Garud.

I am of opinion that the object of employing additional Police being, as explained by the honourable mover of the Bill, protective only and not punitive, it is contrary to principle to single out any particular class or section for payment of the cost of additional Police. On the same ground I am not in favour of the exemption of any class or section and *a fortiori* of any persons from the liability to pay this additional cost. The exemption of any class or section or of any persons individually can only be justified on the ground that the additional Police tax or rate was a punishment which they did not deserve. But there can be no punishment without proof of guilt, and it can never be maintained with justice that all those who are called upon by a Government Resolution to pay a tax of this kind are guilty. Such a tax can only be justified on the broad principle that it is the duty of every good citizen to help Government in defraying the extra cost they are put to by such an extraordinary emergency arising in his locality. I am, therefore, of opinion that the inhabitants generally of the local area in which additional Police may be located are the proper persons to be held responsible for the payment of the additional Police tax. The power to exempt individuals or classes or sections is open to the further objection that it will disturb social harmony and lead to various abuses.

From sub-section (2) of section 25, as drafted by the Committee, the words "or both by a tax and by a rate so imposed and assessed" should be omitted, as I consider that one and the same person should not be liable to both a tax and a rate.

Sub-section (3), proposed to be added to section 25 of the District Police Act by section 4 of the Bill, confers on Government the power to extend the period of payment, which is not to be found in Act V of 1861, as amended by Act VIII of 1895 of the Government of India, and I am opposed to its being inserted in our Act.

I object to section 25A altogether, as it is an entire innovation for which no data were given from past experience showing its necessity. Act V of 1861, as amended by Act VIII of 1895, confines such awards only to cases arising in a local area which is proclaimed by Government and where death or injury results after the date of the proclamation.

I should prefer to omit section 11 of the Bill, as it appears to me unnecessary.

(Signed) D. S. GARUD.

Bill No. III of 1897.

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

(As amended by the Select Committee on the 27th January 1898.)

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

Bo. Act IV of 1890.

Bo. Act IV of 1890.

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

Extent.

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 (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.

(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,

Bo. Act V, of 1879.

(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.”

“(2) The cost of such additional police shall, if Government so direct, be either in whole or in part defrayed by a tax imposed on the persons hereinbelow mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged

(a) either generally on all persons who are inhabitants of the local area to which such notification applies; or

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

Explanation.—For the purposes of this section and of section 25 A ‘inhabitants’ shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside therein.”

4. After sub-section (2) of section 25 of the said Act there shall be inserted the following new sub-section, to be numbered (3), viz. :—

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

“(3) It shall be lawful for the Governor in Council Government to extend, for a term not exceeding in any case five years, 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 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.”

5. For sub-section (3) of section 25 of the said Act the following, which shall be numbered sub-section (4), shall be substituted, viz. :—

Amendment of sub-section (3) of section 25. *“ (4). The said tax shall be imposed, or the said rate shall be assessed, except in a Municipal district, by the Collector at his discretion. If the local area in which any such tax is to be imposed, or any such rate is to be assessed, is a Municipal district, the amount of the charge shall be paid by the Municipality from the Municipal Fund or the rate shall be assessed by the Municipality conformably to the direction given by Government under sub-section (2). ”*

6. After new sub-section (4) of section 25 of the said Act there shall be inserted the following new sub-section, viz. :—

Insertion of new sub-section (5) in section 25. *“ (5) It shall be lawful for the Governor in Council Government, 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 section, viz. :—

Now section added. *“ 25A. (1) With the previous sanction of the Governor in Council 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 1 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 Government, 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). *No compensation shall be granted under this section except upon a claim made within one month from the date of the death, grievous hurt, loss or damage, as aforesaid, in respect of which such claim is made.*

(3) (4) 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 Government or by such officer as he they from time to time empowers empower 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.”

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”.

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

S. L. BATCHELOR,

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

Bombay, 27th January 1898.