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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 Bombay on Monday the 18th March 1889 :—

PRESENT.

His Excellency the Right Honourable LORD REAY, LL.D., G.C.I.E., Governor of Bombay, *Presiding*.

The Honourable J. B. RICHEY, C.S.I.

The Honourable Sir R. WEST, K.C.I.E.

The Honourable the ADVOCATE GENERAL.

The Honourable KASHINATH TRIMBAK TELANG, C.I.E.

The Honourable F. FORBES ADAM, C.I.E.

The Honourable Sirdár Ráo Bahádúr BEHECHARDAS VEHARIDAS.

The Honourable RAHIMTULLA MAHAMED SAYANI, M.A., LL.B.

The Honourable Ráo Rahádúr GURSHIDAPPA VIRBASAPPA GILGANCHI.

The Honourable T. H. STEWART.

The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 3095, dated 12th December, 1888—Returns, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to amend the City of Bombay Municipal Act, 1888.

2. Ditto ditto No. 94, dated 11th January, 1889—Returns, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to vest the Port of Aden in a Trust.
3. Memorandum from Mr. Pandurang Ramchandra Desai, Pleader, District Court, Thána, dated 21st February, 1889—Submits suggestions on the Village Sanitation Bill No. 1 of 1889.
4. Letter from Mr. Narayen Bhikaji Joglekar, Pensioned Deputy Collector, dated 28th February, 1889—Submits suggestions on the Village Sanitation Bill No. 1 of 1889.
5. Extract from a letter from the Secretary to the Government of India, Legislative Department, No. 564, dated 6th March, 1889—Returns, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Gujarát Tálukdárs' Bill No. 6 of 1885.

THE BOMBAY VILLAGE SANITATION BILL.

The Honourable Sir RAYMOND WEST moved the first reading of Bill No. 1 of 1889, the Bombay Village Sanitation Bill. He said:—

Sir Raymond West moves the first reading of the Bill. Your Excellency, the subject of sanitation in the Bombay Presidency has, as the Honourable members are aware, for a long time now engaged the serious attention of the Government. Within the towns of this presidency, the question has been to a certain extent and for the present almost sufficiently dealt with in a series of Municipal Acts, but in the rural districts, and especially in the villages, all, it may be said, still remains to be done. The necessity for sanitation in the rural districts and villages and smaller towns of this presidency and in other parts of India was less apparent at an earlier stage, because, as a matter of fact, the intelligence and the sensibilities even of cultivated and educated people had not been trained at that early time to the point of perceiving the great mischief arising from bad air, insufficient drainage, and a defective and foul supply of water. The subject, however, gradually asserted itself, and in 1886 we had reached a point at which the Government of Bombay declared that it was necessary to grapple with the removal of the insanitary evils existing in the villages and small towns. They had already to a considerable extent been dealt with as matters of discussion both from the theoretical and from the practical point of view; and a large number of points were considered and put forward by the Government as to which sanitary rules and measures should be directed. I will enumerate some of them: (first) daily scavenging by hereditary scavengers—and where they do not exist, by paid ones—should be enforced; (second) the “*baluta*” of the hereditary scavengers should be recovered as a revenue demand; (third) it should be prohibited (a) to deposit dirt or store manure or rubbish except in places assigned; (b) to relieve nature in places where it would be detrimental to the public health to do so, or in places where such an act may be forbidden. Suitable places should be set apart; (c) to use wells and tanks set apart for drinking in any other way, and to defile any water-course which may communicate with such wells and tanks by washing clothes in them, &c.; (d) to stall cattle in forbidden places; (fourth) wells should be so constructed as to prevent their pollution; (fifth) prickly-pear and other noxious vegetation should be removed; (sixth) holes, &c., should be filled in; (seventh) rubbish, &c., should be removed from the village site; (eighth) the village site and vicinity should be drained; (ninth) roadside gutters should be kept clean; (tenth) bodies of Hindus should not be burned above stream in a river or tank from which drinking water is drawn; (eleventh) no burial grounds should be allowed inside the village, and all graves should, where practicable, be six feet deep. These points have been reached after a discussion which had been going on for many years; and it may be interesting and a proper introduction to such an Act as the one of which I have to propose the first reading, if we cast a glance over the history of this discussion, especially with regard to the presidency of Bombay. In looking back to our records I find the first material movement in the direction of municipal sanitation is traceable to Belgaum in 1847. I am glad to find that the town and district in which my own career began had the honour of being first in such a useful course. In Belgaum in 1847 there was a voluntary arrangement entered into by the people under which several municipal requirements were practically carried out through the good-will of the people, similar action being afterwards taken in several other places.

The most important point they had in view was the improvement of the streets, which was carried out to a considerable extent. The experiment being so successful in Belgaum no fewer than 261 towns followed the example in different parts of the country. In 1848 Surat followed the example, and the community there agreed to raise funds by self-taxation for various municipal purposes, including a scavenging establishment. Dhárwár contributed a considerable sum towards the drainage of the town. Afterwards, when a Bill for the constitution of Municipalities was brought forward in the Council of the Governor-General, the Government of Bombay advocated the measure very warmly, and pointed to Belgaum, Dhárwár and Surat as instances where the people had shown their capacity and readiness to adopt measures of sanitation. The Bill was eventually passed by the Government of India, and was subsequently extended to 96 towns in this Presidency, leaving about a hundred other towns to which it had not been applied.

Then in 1873 came the Act, under which the Bombay Government constituted municipalities, and on that has been super-imposed Act II of 1884. In these Acts room has been made for the application of the most advanced system of sanitation. Still our legislation has so far related chiefly to municipalities, leaving the rural districts pretty much in the same condition as before. Going back to the general history of sanitation in India the first great matter to be noticed is the appointment in 1859 of a Royal Commission to inquire into the sanitary state of the army in India. It presented its report in 1863, and it was found that the death-rate in the army was about 6·9 per cent. per annum, which was an enormous mortality as compared with the death-rate of 1·8, which as subsequent experience has shown it was possible to maintain. The Sanitary Commission of 1859 and 1863 made some remarks which are not altogether flattering to this Presidency. Amongst other things they say: "Drainage in Bombay is very defective. The native houses generally are in a filthy condition with much ordure within their precincts, which has been accumulating for years." And further on in their report they dwelt on the very great disadvantages with regard to the general efficiency of the population arising from the bad health induced by evil sanitary conditions. On this point they quote Sir Charles Trevelyan, who says:—"I consider that not only the preservation of life and health is concerned, but the strength and comfort and general efficiency of the population are involved; they would be better and abler men, women, and children for all the purposes of life if the average standard of mental and bodily vigour were improved by the removal of these local causes of a low state of health." The commissioners proposed many useful reforms in the hygienic arrangements in the Bombay Presidency, and amongst other things recommended the appointment of commissions of public health—one for each presidency, to give advice and assistance in all matters relating to public health, the sanitary improvement of native towns, prevention and mitigation of epidemic diseases, and generally exercising a constant oversight on the sanitary condition of the population, European and native, to report on the prevalence, causes and means of preventing sickness and disease, and further that administrative measures should be adopted to give effect to the advice of the presidency commissioners. In that year—1863—the Secretary of State in his despatch to the Government of India directed the appointment of a Sanitary Commission for each of the presidencies. The Commissions were appointed accordingly. They were superseded by a single Sanitary Commissioner for each Presidency aided by a staff of Assistants. Under this organization many reforms have been introduced; much good has been accomplished. But notwithstanding the action taken, the practical result, as far as the rural districts were concerned, was almost *nil* down to a very recent period. In 1882 the Government of India proposed that Civil Surgeons should be more largely used for hygienic business than they had been, and it seemed rather strange that Civil Surgeons had not been more largely used down to that period, they being on the spot, and many of them having an insufficient amount of occupation. However, in that year rules were made by which the Civil Surgeons were given certain functions in connection with general sanitation, and these rules with some modifications have prevailed ever since. In 1883 the Civil Surgeons in this presidency were ordered to visit places within certain distances of the stations in which they were quartered, and it was also decided that all dispensaries, municipalities and towns of more than 5,000 or more inhabitants—a visit to which involved an absence from head-quarters of not more than three days—should be visited at least twice a year by the Civil Surgeon, and that it should also be his duty to visit any part of the district in which an unusual outbreak of disease occurred. This arrangement is still in force. To go back once more. I will refer to another report of the Army Sanitary Commission issued in 1879. In this the commissioners put forward an elaborate set of

recommendations as to village sanitation, in which they dwelt very strongly on the necessity of a pure supply of water, and also pointed out the following four agencies by means of which they considered the sanitary improvements could be introduced into villages and small towns, and carried out :—(first) the inhabitants, who ought to be called upon to keep their houses, cattle-yards, privies, wells and village streets free from nuisance; (second) the village officers, who might be entrusted with powers to see these things done; (third) the zemindár or village proprietor (who does not exist in this presidency, at least as a person responsible for the state of a village); (fourth) the Government, whose sanitary duty lies in the direction of general drainage works and irrigation. With regard to general drainage works, I have no doubt the duty would at present devolve upon local boards whose duty in this respect was contemplated and declared by the Act of 1884. The duties which devolve upon villages or which may properly be thrown upon the village officer and the inhabitants of a village are matters which require the most careful consideration in detail.

They have been so considered, and the results finally arrived at are set down in the Bill before the Council to-day. The Sanitary Commission of 1879, elaborating on the points to which I have already adverted, submitted fifty-five detailed suggestions for general guidance in matters relating to village conservancy and the public health. This Government then sent out a circular recommending these suggestions to the local officers, impressing upon them the importance of getting the suggestions followed, as far as might be, in the several small towns and villages under their administration. This was done, but with the same effect as mere recommendations usually have, and I am afraid the results have not been very fruitful. In 1882 the Government of India again sent another long report, recommended by the Army Sanitary Commission at home, and the suggestions herein might be brought down substantially to these: (first) the cardinal requirement everywhere is cleansing and safe removal and disposal of house sewage; (second) in all the smaller towns it is probable that the most efficient arrangements regarding drainage will be to level and improve the surfaces of public streets, lanes and house compounds, to provide ready escape for rain and surface water by well-made impervious surface drains, and to combine with this an efficient conservancy system to keep as much of the house sewage as possible out of the surface drains; (third) shutting up bad wells and improving and protecting existing wells from sub-soil pollution. In 1883 another report came from the Sanitary Commission—at that time we had reached the era of local self-government—in which they dwelt on the importance of making it a part of the local self-government that measures should be taken to enforce the requisite sanitary improvements in small towns and villages. In 1884, stirred up to a sense of the importance of measures that had been recommended in this way, the Commissioner of the Southern Division issued a circular to all the Collectors of the Division in which he dwelt on the importance of their trying by persuasion and influence to get improved sanitation adopted in the towns and villages under their control. A copy of this was sent to the Governor, who agreed in the recommendations, and forwarded the circular to the other Commissioners. Various reports subsequently came in as to the results of these recommendations; but on the whole they were not very encouraging. In 1885, Sir James Fergusson, the then Governor, went vigorously into the subject, and penned a very strong minute, in which he laid down much of what has since then been generally recognised by the Government as a proper basis on which the work should be carried out. He recorded it as his opinion that the only means for abating a great evil was the establishment of a simple village authority on the most popular basis, and enabling it to require the execution by the inhabitants of simple sanitary works, and meantime the question of utilising the organised labour of the villages themselves was discussed. Enquiries were made and reports sent in, and a draft measure was prepared in 1886. In 1887 this was referred to several native officers of experience after it had gone through the crucible of the Commissioners who sat upon it at Poona. The native officers raised many objections to it, and the result of the criticism was that the draft was abandoned, and another was prepared, which met with a similar fate. This brings us down to the position in which we were when the present Bill was put into shape, in order, if possible, to bring village sanitation to a condition in which it could be worked on the basis of village committees and local self-government, and with a view to the carrying out of the somewhat advanced ideas on sanitation, which have more and more got possession of the public mind. Meanwhile, I may refer to the important general resolution or circular on sanitation, issued by the Government of India in

July 1888, many months after the present Bill had been drafted, but not laying down any principle inconsistent with the Bill but rather evidencing propositions which extend over a much wider surface than this Bill is intended to reach in its present condition, and aiming at the laying down of principles which would bring sanitary and hygienic science and its application all over India into a condition which it has hardly reached in advanced European countries. We think that for the needs of the Bombay Presidency, and the small towns and villages in the Bombay Presidency, a less ambitious scheme, but entirely consistent with sound principles, is what would best meet our needs in a practical way. The Act which is to be passed in order to meet our rural needs should be cast in a manner allowing of considerable flexibility of system, because we are going to try an experiment on a field in which it is quite certain there are great variations of local circumstances, and it is quite certain also that the preparedness of the people to receive advanced schemes of sanitation will be found very different in different parts of the country. It is therefore desirable as in all measures of this sort that while keeping just in advance of the people we should have the sympathy of the more enlightened of them who have the capacity and readiness to explain the proposed improvements and recommend them to the less enlightened villagers. It is on these principles that the Bill now before the Council has been drafted. It is extremely simple in its provisions, and, as the honourable members who have taken the trouble to read the statement of objects and reasons will find, we contemplate three different states of things. In the first the villagers may unite themselves so far as union is necessary, and so bring social pressure to bear one upon the other to such a degree, that all the requisite sanitary measures adapted to their special requirements will be carried out. In this case the Act will not be brought into operation at all. The second state of things is where the agglomeration of houses is such as to need a certain amount of systematic treatment, and where these needs have not been voluntarily attended to. It may be in a particular village that there is a general desire for the adoption of sanitary measures; but there is no general agreement as to what they should be, and, as is often the case, there may be two factions amongst the villagers; and whatever one side proposes is sure to be opposed by the other; if one says that drainage is good for the health of the people, the other will say there is nothing so healthy as bad drainage. In such a state of things it is proposed that the Collector shall have the power to name a committee for looking after the sanitation of the village in the simplest form, and with the least possible pressure upon the villagers, and the least possible disturbance of their habits and customs. The patel will usually, though not necessarily, be one of the committee. We know that under the existing law the patel may be vested with authority to try cases of nuisances, and in many cases he is vested with this power. Therefore, if this Act should be introduced where the patel has this power, the general result will be that he will carry on functions to a certain extent very like what he does now, but with the advantage of having beside him two assessors selected from the body of villagers who will be a check on any arbitrary conduct, and will enlighten him as to the views of the villagers. I need not say that the tendency which one finds in some villages towards cliquism and factions is such that it would hardly be safe, where public opinion is in such a rude and elementary form, to entrust the nomination of the members of these committees to the villagers themselves. There would be a danger both of inaction and of wrong action, a danger of partiality and of factious opposition. The committees formed must necessarily have some coercive power, and simple provisions are made in this Act to enable them to punish offenders against the rules laid down for the sanitation of the villages. Several schedules of rules absolutely requisite and of those usually expedient for the villages should be drawn up, and the village committee should be invited to adopt one or other of them with such variations as shall adapt them to the particular requirements of the individual village. These rules will be published and ample time given to the people to object to them, and if the objections are sound and valid, the rules will not be put in force. In that event a fresh set will be promulgated and objections heard again. The rules will be enforced by the village committee subject to an appeal in case of conviction to the Subdivisional Magistrate or other Magistrate selected by the Magistrate of the district for that particular purpose. The coercive power of the committee will not be too great, and although there is a fine of Rs. 10 provided for, it does not follow that this will be adopted in any particular set of rules, much less that such a fine will ordinarily be imposed. This is the maximum sum, but it is not likely that the fine will go beyond one, two, or at most five rupees. If, however, after these committees have been so formed on such very liberal principles, it is found that they will not work by reason

of the pressure brought to bear by the villagers or for other causes, the third provision of the Act will be brought into operation. Under this a board may be formed with limited powers of taxation, and with more elaborate machinery including an inspector, who may be appointed for the purpose of going about instructing people within the area of the Board's authority what they should do; and if they do not do it, he shall have the power of summoning them to appear before the sanitary board. As to the ways and means of the board provision is made to enable the Collector from time to time, in conference with the board, to charge and assess a rate on the inhabitants of the area, or any part of the area, subject to the board's authority. It will be desirable that the Collector exercise discretion in order to prevent too large a burden being thrown on the people of any particular village, and provision is made for assisting villages by advances from the local funds. It has been suggested that these village committees and village boards ought to be closely connected with the local fund boards in order to bring them into a systematic relation, but it appears very doubtful whether this should take place until the system of village sanitation has received some development. With these remarks I propose that the Bill be read a first time.

The Honourable Sardár Ráo Bahádur BEHECHARDAS VECHARIDAS said:—My Lord, I agree with the Honourable mover of the Bill that some measures are necessary to carry out, more effectively than at present, sanitary improvements in villages. Two questions have to be considered in this connection, those of funds and executive machinery.

As regards the funds, I am of opinion that extra taxation should not be raised except in very extreme cases. When the local funds were first instituted people were distinctly given to understand that the funds so raised would in part be devoted to wells, tanks and other public purposes, and to sanitary improvements. The preamble to the Local Funds Act III of 1869 recites in unmistakeable terms that the object of the Act was to "provide funds for local works of public utility and convenience, and to make better provision for education and *sanitary improvements* in the presidency of Bombay." Section 4 of the same Act made it the duty of the local fund committees of each district to ascertain and provide "for the requirements of the district with respect to *works and undertakings calculated to promote the local public health*, education and convenience, including roads, schools, hospitals, dispensaries, dhármshálas, markets and wells and other works for improving the water supply." This section has been now replaced by section 30 of Act I of 1884, which provides among other compulsory duties of local boards as under:—

"(c) The construction and repair of public tanks, wells, and water-works, the supply of water from thence and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution."

"(e) Public vaccination and *sanitary works and measures necessary for the public health.*"

It is thus clear that sanitary improvement is one of the main duties of local boards and should be paid for from the funds at their disposal. But the present Bill simply gives a permissive power to the local boards to give donations and loans to village committees and boards at their pleasure and proposes to levy rates for improvements required in villages. This, I humbly believe, is inconsistent with the spirit of the Local Funds Acts and is likely to create discontent among the ignorant and illiterate masses, who in several parts of the country are extremely poor. In my opinion a definite portion of the local fund derived from each village should be assigned by the local boards to that village for sanitary purposes, the rest being reserved for education and general purposes. From the amount so assigned to the village should be met all expenditure on account of wells, tanks, &c., supplemented, if necessary, by voluntary contributions or labour from the people. Rates should not be resorted to in any village except in extreme cases where the local fund assignments and voluntary contributions together fall short of the funds required for any urgent necessary works. The question of levying rates for any particular purpose should in each case originate with the village committees and should be approved by the taluka local boards with the sanction of Government. Surface cleaning should be done by the village Bhangis, who in most villages are already paid for the work as contemplated in section 41 of the Bill; where they are not paid arrangements can easily be made by the patels to have them paid by the residents in kind, either cooked food or corn, as is customary.

As regards the executive machinery, some arrangement in the form of village committees is in my opinion necessary. The people should not now be burdened in any village

with the maintenance of sanitary inspectors or similar establishments and the constitution of the committees should be as simple as possible, the distinction drawn in the Bill between sanitary committees and boards being at the same time done away with, for the important ones among the villages might be dealt with under the District Municipal Act Amendment Act of 1884. The committee so constituted might with advantage be placed under the control and guidance of the taluka local boards and might be looked upon as so many branches of those bodies. This is the more necessary and just as the local boards will have to pay a greater portion of the expenditure incurred by village committees.

If the views expressed above are accepted, instead of a separate Bill like the one now before the Council the advisability of providing for the legalisation of such committees and their powers in the body of the Local Boards Act I of 1884 by the addition of the necessary portion will I hope recommend itself to your Excellency and Council, or more conveniently still the present Bill with the necessary changes therein may be taken as one to amend the District Local Boards Act I of 1884.

As regards the powers of the village committees, I do not consider it advisable to invest them as proposed in the Bill with powers higher than are given under the Village Police Act to police patels in cases of nuisances. As again the Bill proposes to continue in one person or body the functions of complainant, witness and judge, I think their decisions in all cases of convictions should be subject to the confirmation of a Magistrate appointed in that behalf by Government. The cases of continuance or repetition requiring higher punishment will be very few and these might conveniently be entrusted to the said or any other Magistrate. Unless this is done the powers conferred on the committees will, I fear, lead to abuses and give rise to village feuds and jealousies.

I need not now detain the Council with further details as I shall have an opportunity of going into them hereafter.

The Honourable K. T. TELANG said:—It would hardly be appropriate to go into the details of this measure on the present occasion. I should, however, just like to make one or two remarks with reference to the question of funds. I entirely accept the view of the Honourable member in charge of the Bill that all steps taken in this matter should be of a tentative character, and taken in a very cautious way. And accepting that view, I confess I am rather nervous regarding the provision in the Bill which enables the executive authorities created by it to levy special taxation for the purposes of the Bill. I do not think this is at present necessary. It seems to me possible to devise some means by which the relations of the sanitary authorities and the existing local boards may be so arranged as to avoid the necessity, at least for the present, of giving special taxing powers to the new authorities to be created. I should like this matter to be more fully considered and dealt with in committee. I think there would be more chance of sanitary improvement becoming more popular, and being more generally acquiesced in and accepted, if at the first start it was not associated with the unpleasant presence of the tax-gatherer in the villages. There is only one other thing I should like to refer to. I do not know whether the Honourable member in charge of the Bill has had his attention drawn to certain criticisms on the Bill and some observations on the general subject by Miss Florence Nightingale. Although I am not prepared to concur in all her remarks; I think that she offers some suggestions worthy of consideration, but I need not say more upon the matter just now, as the Honourable member informs me that he has received from Miss Nightingale a copy of the papers I have just alluded to.

The Bill was then read a first time, and on the motion of the Honourable Sir R. West,

it was resolved that the Bill be referred to a Select Committee consisting of the Honourable Mr. Telang, the Honourable Sardár Ráo Bahádúr Behechardas Veharidas, the Honourable Ráo Bahádúr Gurshidappa Virbasappa Gilganchi, the Honourable Mr. Stewart and the Honourable Mover, with instructions to report by the 15th July 1889.

Bill read a first time, and referred to a Select Committee.

THE SALT BILL.

The Honourable Mr. RICHEY said:—I have to ask permission of the Council to bring forward a little matter which is not on the list of business.

Mr. Stewart appointed to the Select Committee.

At the last sitting of the Council the Honourable Mr. Naylor was nominated one of the members of the Select Committee

on the Salt Bill. Owing to Mr. Naylor being absent from Bombay I want to ask the Council to appoint another member in his place, and have therefore to propose that the Honourable Mr. T. H. Stewart be appointed in place of Mr. Naylor.

The proposal was accepted.

His Excellency the PRESIDENT then adjourned the Council.

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

J. J. HEATON,

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

Bombay, 18th March 1889.

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