

THE



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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the "Bill to amend Bombay Act No. III of 1866," and the Bill as amended by the Select Committee, are, in accordance with Rule 25 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. 2 of 1887
(A Bill to amend Bombay Act No. III. of 1866).*

We, the members of the Select Committee appointed to consider Bill No. 2 of 1887, have the honour to report that on a consideration of the provisions of law relating to gambling at present in force in this presidency, we have thought it more desirable to pass a Bill to consolidate and amend those provisions than to add to the Statute-book a new separate enactment on the subject.

2. The present law as to gambling is contained, so far as regards the city of Bombay, in sections 56, 57, 58, 60, 61, 62, 63, 65 and 66 of Act XIII of 1856 and section 15 of Act XLVIII of 1860 and, as regards the rest of the presidency, in Bombay Act III of 1866. The two sets of provisions are practically identical and we see no reason why the law on this subject for the city of Bombay should be distinct from that of the rest of the presidency.

3. We have therefore re-drawn the Bill as introduced into Council and now propose to repeal all the enactments mentioned in the last paragraph and to replace them by the amended Bill, which we propose (section 1) shall operate *proprio vigore* in the city of Bombay. Outside of Bombay we propose that the new Bill shall operate *proprio vigore* in the island of Salsette and in all railway station-houses and in all places not more than three miles distant from any such station-house. We have considered whether it is desirable to extend the three miles' distance from railway stations and have come to the conclusion that it is not, because a longer radius would include many villages in the presidency in which it is not necessary that the Act should operate, and the power of expressly extending it which will vest in the Governor in Council will permit

of its being brought into operation in any place near to, but more than three miles from, a railway-station in which the enforcement of its provisions may at any time be found necessary. But as the proximity of the island of Salsette to the city of Bombay renders resort to any place in that island by persons from the city very easy, we think that the Act should extend to the whole of that island.

4. Outside of Bombay and Salsette the Bill, as we have amended it, will not operate beyond railway station-houses and places within three miles from a railway station-house, unless the Governor in Council expressly extends it. We deem it desirable to leave the Governor in Council full discretion as to the places to which it shall be so extended. This was the principal intention of the Bill, as introduced into the Council. It is in accordance with the law in force in Bengal (Bengal Act II of 1867, section 2); and it seems necessary to remove the restrictions of the present Bombay Act (Bombay Act III of 1866, section 1) which prevent Government from extending it to any town or city containing less than five thousand inhabitants or not having a resident Magistrate, because there are places not answering to that description in which it is very expedient that the Act should operate.

5. The other provisions of the Bill, as amended by us, do not differ materially from the existing law.

16th September 1887.

(Signed) J. R. NAYLOR.

„ KAZI SHAHABUDIN.

„ MAHADEV WASUDEV BARVE.

Bill No. 2 of 1887.

A Bill to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay to amend Bombay Act No. III of 1866.

WHEREAS it is expedient to consolidate and amend the law for the prevention of gambling in the presidency of Bombay: enable the Governor of Bombay in Council to extend the provisions of Bombay Act No. III of 1866 (an Act for the prevention of Gambling in certain places in the Presidency of Bombay) to any local area in the territories subject to his Government: It is enacted as follows:—

1. For section 1 of the said Act the following section shall be substituted, viz:—
 Amendment of Bombay Act III of 1866, section 1.

1. This Act may be cited as 'The Short Title. Bombay Prevention of Gambling Act, 1887.'
 Extent of Act.

It extends to the city of Bombay, to the island of Salsette, to all railway station-houses without the said city and island of Bombay and to all places surrounding such station-houses and being not more than three miles distant from any part of such station-houses, respectively, and all or any of its provisions may be extended from time to time by the

Governor in Council, by an order published in the 'Bombay Government Gazette', to any local area, other than the city of Bombay in the presidency of Bombay.

The Governor in Council may from time to time, by an order published as aforesaid, cancel or vary any order made by him under this section. Bo. III of 1866, s. 2, Proviso.

2. In section 2 of the said Act the words "local area" shall be substituted for the words "city or town," each time they occur.
 Amendment of Bombay Act III of 1866, section 2.

2. The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

3. In this Act "common gaming-house" means a house, room, or place, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, or place, whether by a charge for the use of the instruments of gaming or of the house, room, or place or otherwise howsoever. Bo. III of 1866, s 14,

Bo. III of 1866, s. 3
XIII of 1856, s. 56.

4. Whoever :

(a) being the owner or occupier or having the use of any house, room, or place, opens, keeps or uses the same for the purpose of a common gaming-house,

(b) being the owner or occupier of any such house, room, or place, knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(c) has the care or management of, or in any manner assists in conducting, the business of any such house, room, or place, opened, occupied, kept or used for the purpose aforesaid,

(d) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room, or place,

shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months.

Bo. III of 1866, s. 4,
XIII of 1856, s. 57.

5. Whoever is found in any common gaming-house, playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be punished with fine which may extend to two hundred rupees, or with imprisonment which may extend to one month.

Any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

Bo. III of 1866, s. 5,
XIII of 1856, s. 58.

6. It shall be lawful for the Commissioner of Police in the city of Bombay, and elsewhere for any Magistrate of the first class or any District Superintendent of Police or for any Assistant Superintendent empowered by Government in this behalf, upon any complaint made before him on oath that there is reason to suspect any house, room, or place to be used as a common gaming-house, and upon satisfying himself after such enquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any inspector, or other superior officer of Police of not less rank than a chief constable,

(a) to enter, with the assistance of such persons as may be found necessary, by

night or by day, and by force if necessary, any such house, room, or place, and

(b) to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not, and

(c) to seize all instruments of gaming, and all moneys and securities instruments. and seizure of gaming instruments. for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and

(d) to search all parts of the house, room, or place, which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he shall so find therein or take into custody, and to seize and take possession of all instruments of gaming found upon such search.

7. When any cards, dice, gaming-table, counters, cloth, board or other instruments of gaming used in playing any game, not being a game of mere skill, are found in any house, room, or place entered under warrant issued under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police officer or by any person acting under the authority of either of them,

Bo. III of 1866, s. 6,
XLVIII of 1860, s. 15.

Proof of keeping, or of gaming in, common gaming-house.

8. On conviction of any person for opening, keeping or using a common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed ;

Bo. III of 1866, s. 7,
XLIII of 1856, s. 60.

On conviction for keeping, or gaming in, a common gaming-house, instruments of gaming may be destroyed. and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof, with all moneys seized therein to be forfeited ; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

Bo. III of 1866, s. 8. XIII of 1856, s. 61.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for money not required for conviction.

Bo. III of 1866, s. 9. XIII of 1856, s. 62.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Indemnification of persons concerned who are examined as witnesses.

Bo. III of 1866, s. 10. XIII of 1856, s. 65.

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth of any fine which may be levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, to be paid to an informer.

Payment of portion of fine to informer.

12. A Police-officer may apprehend without warrant : Bo. III of 1866, s. 11. XIII of 1856, s. 66.

Power to arrest without warrant for gaming, and setting birds and animals to fight, in public streets.

(a) any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public street, place or thoroughfare ;

(b) any person setting any birds or animals to fight in any public street, place or thoroughfare ;

(c) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be punished with fine which may extend to fifty rupees, or with imprisonment which may extend to one month.

And such Police-officer may seize all birds and animals and instruments of gaming found in such public street, place or thoroughfare or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited.

Seizure and destruction of instruments found.

13. Nothing in this Act shall be held to apply to any game of mere skill whereof Bo. III of 1866, s. 12. XIII of 1856, s. 63.

Saving of games of mere skill.

of mere skill wherever played.

SCHEDULE (see Section 2.)

Enactments repealed.

Enactments.	Subject.	Extent of repeal.
Act XIII of 1856 ...	For regulating the Police of the towns of Calcutta, Madras and Bombay.	Sections 56, 57, 58, 60, 61, 62, 63, 65 and 66.
Act XLVIII of 1860 ...	To amend Act XIII of 1856.	Section 15.
Bombay Act III of 1866 ...	For the prevention of gambling.	The whole Act, so far as the same has not been already repealed.

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

A. SHEWAN,

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

Poona, 16th September 1887.