

THE



# Bombay Government Gazette

Published by Authority.

SATURDAY, 8TH MARCH 1890.

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, Kanarese and Sindhi, and the translations to be published in the "Bombay Government Gazette." The Sindhi translation to be published in the "Sind Official 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 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. 1 of 1890.

##### *The Bombay Municipal Servants Bill.*

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere, for the enforcement of regulations regarding certain classes of municipal servants whose functions intimately concern the public health or safety, and regarding the duties, withdrawal from duty, and leave of such servants; It is enacted as follows:—

1. (1) This Act may be cited as "The Short title. **Bombay Municipal Servants Act."**
- (2) It shall come into force in the Commencement and City of Bombay at extent. **once.**
- (3) The Governor in Council may, by notification in the *Bombay Government Gazette*, extend all or any of its provisions, and after a day not less than two months

after the date of such notification, to any municipal district in the Bombay Presidency.

He may also cancel or vary such notification consistently with the provisions of this Act.

2. (1) Unless there be something repugnant in the subject or context,

Interpretation. all words used in this Act shall have respectively the meanings assigned to them in the City of Bombay Municipal Act, 1888. Bo. III of 1888.

- (2) This Act shall, in so far as it affects the City of Bombay, be read as part of the City of Bombay Municipal Act, 1888, Bo. II of 1888.

and, in so far as it affects any other part of the Presidency of Bombay, shall be read as part of the Bombay District Municipal Acts, 1873 and 1884. Bo. VI of 1873. Bo. II of 1884.

3. Any municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality to perform any of the duties specified in the Schedule, who :

Conditions as to resignation, withdrawal and absence from specified duties.

(a) without the written permission, in the City of Bombay of the Commissioner, and elsewhere of the officer authorized by the Municipality to give such permission, resigns his office without at least two months' notice given in writing to the Commissioner or to such officer, or withdraws or absents himself from the duties thereof, except in case of illness or accident disqualifying him for the discharge of such duties ; or

(b) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality, it is his duty to observe or obey ;

shall forfeit all arrears of pay then due to him, and, in addition to such forfeiture and any other penalty which may be imposed on him under any enactment or rule for the time being in force, shall be liable, on conviction by a Magistrate, to imprisonment which may extend to three months, or to fine, or to both imprisonment and fine :

Provided that if any such officer, servant or other person produces a certificate signed, by the medical officer appointed in the City of Bombay by the Commissioner, and elsewhere by the Municipality in this behalf, of a present incapacity to perform his duties which will probably endure for a month or more, the necessary permission to resign shall forthwith be granted.

Provided further that no fee shall be taken from a person on account of such certificate as aforesaid or of examination in connection therewith.

4. (1) Any person duly authorised to give the permission to resign, referred to in section 3(a), may :

Power to dispense with two months' notice or with services after tender of resignation.

(a) at his discretion, accept any resignation to take effect at a time less than two months from the date thereof ; or

(b) at any time after any municipal officer, servant or other person employed as aforesaid, has tendered his resignation, dispense with the services of such officer, servant or person.

(2) Any such officer, servant or other person whose services are dispensed with under Sub-section 1, clause (b) shall, subject to any agreement in writing previously made between him and the Corporation or Municipality or its representative, be entitled, in addition to any wages which he may have earned at the date of tendering his resignation, to 15 days' wages or to wages for such period longer than 15 days, as his services may, after such tender of resignation, have been retained by the officer authorised in that behalf.

5. (1) It shall be lawful for the Governor in Council from time to time, by notification in the *Bombay Government Gazette*, to declare that from a date to be fixed therein, which shall not be less than two months from the date thereof, any specified class of duties which concern the public health or safety, shall be deemed to be included in the Schedule to this Act, and from the date fixed on that behalf in such notification the provisions of section 3 shall apply to all persons employed by, or on behalf of, the Corporation or a Municipality to perform any duty of the class so specified in such notification.

Power of Governor in Council to add to Schedule.

(2) The Governor in Council may from time to time cancel or vary such notification consistently with the preceding clause and with the other provisions of this Act, and may also limit the operation of any notification to any Municipality or place wherein this Act is in operation.

6. Every person employed by or on behalf of the Corporation or a Municipality to perform any of the duties set forth in the Schedule, for the time being in force, shall, on payment of one anna, be entitled to receive in the City of Bombay from the Municipal Commissioner for the City of Bombay, and elsewhere from the President of a Municipality, a copy of this Act and of the notifications issued thereunder, applicable to such person or to the class to which he belongs, in the English, Maráthi, Gujaráti, Canarese or Sindhi language.

Copies of Act to be supplied at nominal price to employes.

## SCHEDULE.

*(Vide Section 3.)*

*Duties which render the provisions of section 3 applicable to the persons employed by, or on behalf of, the Corporation or a Municipality to perform them.*

Class I.—Duties connected with the public health :

- (a) Scavenging or cleansing streets or premises,
- (b) cleansing or flushing drains,
- (c) removing or disposing of excrementitious or polluted matter from houses, latrines, privies, urinals, or cess-pools,
- (d) removing carcasses,
- (e) preventing nuisances generally.

Class II.—Duties connected with the public safety :

Duties of

- (a) members of a fire-brigade,
- (b) persons, however designated, employed on, or in connection with, the maintenance or service of any municipal water-work, drain, pumping station or fire hydrant, including :
  - (1) inspectors,
  - (2) sub-inspectors,
  - (3) foremen,
  - (4) mechanics,
  - (5) drivers,
  - (6) watchmen,
  - (7) labourers,
  - (8) workmen,
- (c) lamp-lighters.

## STATEMENT OF OBJECTS AND REASONS.

The necessity for the present Bill has arisen from the repeal of the Bombay Municipal Act, 1872, and the omission from the present City of Bombay Municipal Act, 1888, of the provision contained in section 267 (a) of the repealed Act. Bo. III of 1872.  
Bo. III of 1888.

2. That sub-section gave the power to make bye-laws to secure "the regular, efficient and faithful performance of their several duties by all officers and servants of the Corporation." Till the repeal of Bombay Act III of 1872, bye-law No. 9, made with the required sanction, imposed a penalty in case of unauthorised abandonment of duty by certain municipal servants.

3. The power to make such bye-laws is not continued by the present Act, and the bye-law is, therefore, Government are advised, no longer in force. Bo. III of 1888.

4. The primary object of the present Bill is thus, not so much to introduce any new obligations, as to provide by legislation the penalty hitherto imposed under municipal bye-laws. The punitive clauses of the Bill are, it will be noted, limited in their application to those classes of servants whose duties intimately concern the public health or safety.

5. By section 365 of the City of Bombay Municipal Act, the Commissioner is bound to provide for the surface cleaning of the city, and by Section 371 an absolute monopoly is created as to the employment of hali-khars. The residents are, therefore, entirely at the mercy of the Municipality in these matters, and if the municipal machinery were to break down even for a week, the result, as everybody familiar with Bombay must be aware, would be most deplorable, and there would be the greatest risk of an epidemic. The desired legislation may, therefore, be regarded as a necessary corollary to the extensive powers already vested in the municipal executive by sections 64 (3) (c) and 434 of the present Municipal Act. Bo. III of 1888.

6. The danger to life would be no less serious, if the members of the fire-brigade could with impunity abandon their duties at the moment they were most urgently required. Bo. III of 1888.

Till quite recently the firemen in the City of Bombay were members of the Police, and the due discharge of their duties was consequently secured by the law applicable to them as part of the general Police force. Section 359 of the City of Bombay Municipal Act, 1888, imposes on the Corporation the duty of "extinguishing fire and protecting life and property in case of fire," and the agency employed for the purpose is now under the control of the Commissioner. There is, however, no penal clause for breaches of discipline or neglect of duty by firemen. Bo. III of 1888.



7. The fire-brigade is in great measure dependent on the supply of water, and would be almost helpless, if that supply were interrupted. The health as well as the safety of the entire city might, moreover, be endangered by an abandonment or neglect of duties connected with the maintenance or service of water-works.

8. The lighting of the city also concerns the public safety, and the consequences would be serious were it in the power of the lamp-lighters, by refusing to perform their duty, to plunge the city, or any part of it, in darkness.

9. In all these cases, therefore, it appears to be necessary to provide by legislation the protection which the repeal of the bye-laws has withdrawn.

10. It is possible that hereafter, experience may show the necessity for further extending this list (*see* Schedule annexed to the Bill), and it is therefore proposed to empower the Governor in Council by notification, giving due warning, to extend the application of the Bill to any class of duties that concern the public health or safety. The notice to be given will be long enough to enable any one who does not approve of the terms to withdraw from the service.

11. Provision is also made in section 2 of the Bill for its extension on due warning given to any Municipal District in the Presidency.

12. In order that all persons employed on duties, rendering them liable in case of wilful neglect or withdrawal, to the penalties proposed, may have full warning of such liability, provision has been made in the Bill for the supply to such employes of copies of the Act at a nominal price.


6th March 1890.

(Signed) R. WEST.

*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, 6th March 1890.*

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35—38 of the *Bombay Government Gazette*,  
Part V, dated 8th March 1890.