

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 "Bombay Municipal Servants Bill," 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 the Bill (No. 1 of 1890) entitled the Bombay Municipal Servants Bill.

We, the members of the Select Committee appointed to consider Bill No. 1 of 1890 (The Bombay Municipal Servants Bill) have the honour to present the following Report:—

1. During the progress of our sittings the Committee has been deprived of the services of two of its members, the Honourable Mr. Latham, and the Honourable Mr. Beaufort by resignation.

2. The Bill was published in English on the 8th March 1890, and in Maráthi and Gujaráti on the 18th March 1890.

3. The Committee sat on two occasions to consider the Bill. At the first of these sittings on the 24th March 1890 it was resolved to send the Bill with certain amendments proposed in the Committee to the Municipal Corporation of Bombay for its opinion. That opinion, communicated in a letter of the President dated the 31st July 1890, was laid before us at our second meeting on the 9th of August and has received our consideration.

4. We have amended section 1, sub-section (3), and section 5, sub-section (1), by omitting the words "in the *Bombay Government Gazette*," as unnecessary in view of the interpretation of the word notification in section 9 of the Bombay General Clauses Act (III of 1886).

5. We have amended section 2, sub-section (2), by changing the words "as part of" into "with" wherever they occur.

6. In deference to the expressed opinion of the Corporation of Bombay, we have in section 3, clause (a), inserted words rendering it possible for permission to resign municipal service to be given by an individual deputed for that purpose by the Commissioner. To the same clause we have added words which enlarge to some extent the grounds on which a municipal employé may absent himself from his duties without permission. One of our members desired, among other alterations of this section which we deal with below, that we should add a clause dealing with strikes or illegal combinations of employés. We think that there would be considerable difficulty in defining the word "strike", or in introducing into our legislation a law of criminal conspiracy, and have been unable therefore to go this length; but we have added a fresh clause (c), which to some extent meets the case by providing a punishment, conformable to the existing law, for the abetment of the offences created by clauses (a) and (b). In order to prevent any excessive hardship we have modified the provision of the section as it originally stood, by words in substitution for the words "all arrears of pay then due to him", which give power only to forfeit pay due under a current term of service, and arrears of pay due for a term not exceeding one month.

7. We have amended section 4, sub-section (1), by changing the words "Any person duly authorised to give the permission to resign referred to in", into "The Commissioner or officer authorised by the Municipality under", which are more direct in statement.

8. We had it under consideration whether it would not be advisable to omit section 5 of the Bill as, in the opinion of one of our members, practically giving power to the Governor in Council to legislate by notification. We think, however, that the exceptional circumstances for which the Bill provides justify the provision, and in view of the opinion expressed by the Corporation in its favour, we have decided to retain the section. To further meet the views of the Corporation we have made the power one to be exercised only at its request. We have rendered sub-section (2) more complete by adding the power of withdrawing to that of varying or cancelling the notification.

9. We have so amended section 6 as to give every municipal employé affected a right to receive a copy of the Act, &c., *gratis* on his first taking service.

10. One of our members, the Honourable Mr. Javerilal Umiashankar Yajnik, desired that the period of notice required by section 3, clause (a), should be reduced from two months to one, and proposed several other amendments which would have had the effect of completely re-modelling the first part of the section by creating three distinct classes of offences, with a distinct punishment for each. At the honourable member's request we set forth the section as he desires it to stand down to the first proviso:

"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:

(a) without the written permission in the City of Bombay of the Commissioner or a person by him deputed in this behalf, and elsewhere of the officer authorised by the Municipality to give such permission, resigns his office without at least *one* month's 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 any reason accepted as sufficient by such Commissioner or

person by him deputed or such officer, shall forfeit his pay accruing due under a current term of service, and arrears of pay due for a term of not more than one month ;

(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, in addition to such forfeiture of pay as aforesaid, be liable to a fine not exceeding Rs. 20, and in case of his being a member of the Fire Brigade shall be further liable to imprisonment which may extend to three months ;*

(c) *instigates any other officer, servant or person in the service of the said Corporation or Municipality to strike, or is a member of a body combining to strike work, or abets such strike, shall, in addition to such forfeiture of pay and fine, be liable on conviction before a magistrate to imprisonment which may extend to three months or to fine, or to both."*

We are unable to accept these amendments in their entirety, as we consider the punishments enacted for the offences in clauses (a) and (b) insufficient, and for the reasons already stated we consider the enactment of clause (c) inexpedient. But we have partially accepted the proposed amendment of clause (a), and the clause we have inserted in place of the honourable member's clause (c) sufficiently meets, we think, the danger against which he desires to guard.

(Signed)	R. WEST.
„	R. M. SAYANI.
„	NAVROJEE N. WADIA.
„	JAVERILAL U. YAJNIK.

Bombay, 30th August 1890.

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 Bombay Municipal Servants Act."

(2) It shall come into force in the City of Bombay at once.

(3) The Governor in Council may, by notification, extend all or any of its provisions, on 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, all words used in this Act shall have respectively the meanings assigned to them in the City of Bombay Municipal Act, 1888.

(2) This Act shall, in so far as it affects the City of Bombay, be read with as part of the City of Bombay Municipal Act, 1888, and, in so far as it affects any other part of the Presidency of Bombay, shall be read with as part of the Bombay District Municipal Acts, 1873 and 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:

(a) without the written permission in the City of Bombay of the Commissioner or a person by him deputed in that behalf, 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 person by him deputed, 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 other reason accepted as sufficient by such Commissioner or person by him deputed, or such officer; 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; or

(c) who abets an offence under clause (a) or clause (b) shall forfeit his pay accruing due under a current term of service, and arrears of pay due for a term of not more than one month ~~and 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) The Commissioner or officer authorized by the Municipality undersigned after tender of resignation, ~~der any person~~ ~~resignation.~~ ~~gave the permission to resign, referred to in section 3 (a), may:~~ ~~der any person~~ ~~resignation.~~ ~~gave the permission to resign, referred to in section 3 (a), may:~~

(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

Bo. III of 1888.

Bo. III of 1888.

Bo. VI of 1873.
Bo. II of 1884.

tion, 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 on the request of the Corporation or of a Municipality from time to time, by notification, 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.

(2) The Governor in Council may withdraw such notification and may from time to time cancel or vary the same 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

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

Schedule shall, on entering the service receive gratis, and shall at any time thereafter, 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.

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.

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

A. C. LOGAN,

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

Bombay Castle, 4th September 1890.