



Bombay Government Gazette.

Published by Authority.

TUESDAY, 24TH OCTOBER 1876.

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.

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 Poona on Wednesday, the 4th October 1876, at noon.

P R E S E N T :

His Excellency the Honourable SIR PHILLIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding*.

His Excellency the Honourable SIR CHARLES STAVELEY, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable the ACTING ADVOCATE GENERAL.

The Honourable MAJOR-GENERAL M. K. KENNEDY.

The Honourable E. W. RAVESCROFT, C.S.I.

The Honourable NACODA MAHOMED ALI ROGAY.

The Honourable RAO BAHADUR BECHERDASS AMBAIDASS, C.S.I.

The Honourable SORABJI SAPURJI BENGALI.

The Honourable Colonel W. C. ANDERSON.

Paper presented to the Council.

The following paper was presented to the Council :—

Report of the Select Committee appointed to consider and report on the Bill to consolidate and amend the law relating to the powers and procedure of the Mámlatdárs' Courts.

The Honourable Mr. ROGERS said that the Government of India, in their answer to the Select Committee's inquiries respecting the Mámlatdárs' Courts Bill, No. 2 of 1876, had referred them to Section 6 of Act IX. of 1871, which laid down that—"When, by any law not mentioned in the schedule hereto annexed, and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals, or applications, nothing herein contained shall affect such law." The difficulty regarding Section 21 of the Bill, which limited the period during which suits could be brought to a period of three years, had therefore been got over, and there would be no difficulty in passing that section as it stood. In going through the Bill again, it was pointed out that it would be advisable to make certain alterations, which, however, referred entirely to matters of detail, and he did not think there would be any necessity on that account to refer the matter back again to the Select Committee. He could bring forward the amendments before the Council, and the Council could pass them without any difficulty. There was another difficulty, which was of a more serious character. When the Supreme Government considered the first Bill that was passed by the Council, they pointed out that the Council had no power whatever to modify any portion of the Indian Councils Act. The Council were aware that in suits in the Mámlatdárs' Courts the fee prescribed was only 8 annas. That limit of fee was laid down in Section 4, Schedule 2, of Act VII. of 1870, where a distinct reference was made to Act V. of 1864. If they passed this Bill, repealing Act V. of 1864, and wished to lay down that the reference in the 4th Section of Schedule 2 of Act VII. of 1870 was to be read as if made for the Act they were now about to pass, the Government of India would say they were modifying their Act, and had no power to do so. It had been, therefore, suggested that the matter should be referred back to the Select Committee in order to consider this point; but before moving the adoption of this course he would beg leave to ask the Honourable the Advocate General if he could point to any other way out of the difficulty.

The Honourable the ADVOCATE GENERAL said he was afraid there was no other way out of the difficulty. The Court Fees Act, which levied a fee of 8 annas upon plaints presented in Mámlatdárs' Courts, referred to the Acts which were proposed to be repealed by the present Bill, and made no provision for any Act which might be substituted for them; and any provision in the present Bill providing that it shall be considered the Act referred to by the Court Fees Act, instead of Act V. of 1864, or making any substantive provision for the levying of a fee, would be considered by the Government of India as a modification of their Court Fees Act. It appeared to him that the difficulty was insuperable.

The Honourable Mr. GIBBS:—There is also another reason why the Bill had better be referred back to the Select Committee. When the Select Committee met the other day to consider the objections taken by the Government of India to the Bill as it was passed in the last year's Council, they directed the Secretary to write a letter to the Government of India, pointing out the difficulties which had arisen, and also drawing attention to Section 21 as drafted in the new Bill; asking, at the same time, whether if this Council, in passing a Bill, repealed a previous law the number and date of which had been quoted in an Act of the Government of India subsequent to the passing of the Indian Councils Act, they could provide that wherever, in previous Acts, "Act II. of 1866" is met with, "Act I. of 1876 is to be read instead," or whether this is a modification of such a nature that this Council is prevented from making it. If so, this Council seems to be perfectly helpless to pass any Bill amending a previous Act of this Council which has been alluded to in any of the general Acts, as the Courts Fees Act or the Limitation Law, or to any of the late Acts which have been published by the Government of India. We put this question distinctly to the Government of India in our letter. We have received no answer to the letter, but we have received a telegram to the effect that there is no objection to Section 21 as amended, and on that we made our report, and proposed that the Bill should be passed. After the report had been sent in, I happened accidentally to speak to Mr. Naylor the other day on the subject of this Act, and the result was that on looking at the Bill this difficulty as to the Court Fees Act arose. It is a very difficult question, and seems likely to affect every Bill this Council may bring in. Therefore, I think it much better that the Bill should be referred back to the Select Committee, where, when we receive an answer to our letter from the Government of India, the matter can be fully and freely discussed.

The Honourable Mr. ROGERS:—I have no objection to refer it back, except that I cannot see what the Select Committee can do with the question.

The Honourable Mr. GIBBS:—When we get the answer from the Government of India we can consider it.

The Bill referred back to the Select Committee.

The Bill was then referred back to the Select Committee.

His Excellency the PRESIDENT:—I apprehend there will be nothing seriously out of order if we now permit Mr. Ravenscroft to move for leave to bring in a Bill to amend the Act referring to the Cotton Department. He is not going to move the first reading, but desires the Council to give him an opportunity of bringing forward some points he wishes to explain.

The Honourable Mr. RAVENSCROFT:—Your Excellency, under Section 13 of the Rules and Regulations of this Council, I beg to move

Mr. Ravenscroft moves for leave to bring in a Bill to amend the Cotton Frauds Act of 1863.

for leave to bring in a Bill to amend the law for the prevention of fraudulent adulteration of cotton—that is, Bombay Act IX. of 1863. Perhaps it may be advisable on this occasion to give a slight history of the laws

which have been passed by the Government of this Presidency, with a view to preventing and punishing the fraudulent adulteration of cotton. The earlier Acts of the Legislature to which I have referred are those which were passed prior to 1863. These were chiefly limited to the province of Guzerat, where a large proportion of the cotton exported from this Presidency is grown. These laws, which were passed prior to 1863, were found admirably efficacious for some time. About that time, however (1862), a very great stimulus was given to the cotton trade in this Presidency,—cotton which previously ranged in price from four to six pence per pound suddenly running up to eighteen and twenty pence per pound. The stimulus, of course, which I refer to was that caused by the American war, which, by closing all the Southern ports of America, compelled the spinners of Europe to look elsewhere for that supply which the slave-holding districts had yielded up to that time. The effect of the sudden rise in the price of Indian cotton—from four to six pence to from eighteen to twenty pence per lb.—of course excited great feelings of competition in the minds of all growers. The consequence was that every man who had cotton to sell was anxious to make it go as far as he could; and it is with great regret I am compelled to state that at this time deterioration so spread throughout the cotton-growing districts of this Presidency that the cotton which was exported from India became a by-word in the mouths of Manchester and other European spinners. So notorious was this failing that representations were made from many parts of Europe both to the India Office and to the Government of this Presidency,—especially to the Government of Sir Bartle Frere, who took very great interest in the preservation of what he knew to be one of the most important branches of the trade of British India. Of course those who were interested in the maintenance of this fraudulent practice did their best to throw discredit on those reports, and said matters were not so bad, and were not very different from what they had been a couple of years previously. With a view, however, to testing these statements, His Excellency Sir Bartle Frere, at the suggestion and with the approval of many of the respectable Native and European merchants of Bombay, requested some of the leading merchants of the city, at the close of 1862, to make a tour through Guzerat and other cotton-growing districts, and report to him privately what the condition of the cotton grown and exported actually was. This deputation consisted, as far as I recollect, of Mr. Michael Scott, one of the leading merchants of Bombay, and who was also a member of this Legislative Council; Dr. Forbes, Cotton Commissioner for the whole Presidency, a man who knew all about cotton from his long connection with the trade; and some other leading men whose names I forgot at this moment, Native and European, who very fairly represented the cotton interests of Bombay. At that time, I had been connected with Guzerat for many years, and was then acting for my honourable friend Mr. Rogers as Collector of Surat, which was the first place where the Committee commenced their investigations, and I was appointed to act with them. This occurred at the close of 1862. We made a careful investigation into the condition of numerous bales of cotton, and we found that the reports, instead of being exaggerated, were understated, and that there was scarcely a bale of cotton that did not contain substances such as stones, dirt, and all sorts of rubbish, which had evidently been put in, not by accident, but with the fraudulent intention of increasing the weight of the bale and defrauding the purchaser. The committee went on from Surat to Broach, and from Broach to other parts of the Presidency, and in each of the districts where they went they found a similar state of things. They returned to Bombay, and explained all these

matters to the mercantile community of Bombay, and with the full concurrence of the mercantile community of Bombay, and after communication and correspondence with England, the Government of Sir Bartle Frere drew up with much care the present Act IX. of 1863, which is the law now in force for the prevention of fraudulent adulteration of cotton throughout these districts. Early in 1864 the Government determined to bring this Act into operation, and His Excellency Sir Bartle Frere was good enough to entrust me with the duty of carrying the law into effect, and gave me large discretion as to the manner in which I should carry it out. In accordance with his permission I visited the districts where cotton was grown, and appointed a certain number of Inspectors and Sub-Inspectors for carrying on the work of inspection under the Act. I was so employed for about ten months or a year. From that date the improvement in the staple was very marked, and whereas the adulteration and deterioration of cotton were previously so notorious that Bombay cotton was a by-word and a reproach in the markets of Europe, it has from that date gradually improved; so that at the present time it competes—not, of course, in quality, but in purity—with the best American cotton. Of course, this very satisfactory state of things has given rise to a great deal of discussion. Shortly after the Act came into operation, there were two parties formed, one of whom declared the Act to be very efficacious, the other declaring that it was inefficacious, and that the improvements, which everybody allowed had been effected, had been caused not by the operation of the law, but the construction of railroads, the introduction of telegraph conveniences, and the new mode of conducting business which then became general. Which of the two parties was right in their manner of accounting for the change it is impossible positively to say; but about one fact there is no dispute, viz., that whereas the cotton was formerly deteriorated and adulterated, it now fairly competes, as I before said, in purity with American cotton of good qualities. So things went on for years till, in about 1870, 1872, or 1873, the mercantile community of Bombay were a good deal pressed, and naturally looked about for any and every means of reducing fees and taxation which either directly or indirectly pressed upon them in the conduct of their business. One of the means by which they thought they might reduce local taxation, which in their eyes injured trade, was by inducing the Government of this Presidency to annul this Bombay Act IX. of 1863, and thereby cause a remission of the small fees now levied on all bales of cotton exported from Bombay. They stated, fairly enough, their opinion that it was then time this Act should be cancelled as the use for it, owing to the changes which I have previously mentioned, no longer existed. The Government of His Excellency Sir Seymour FitzGerald was not inclined to pay attention to this recommendation. Sir Seymour FitzGerald was strongly interested in the cotton question, and from travelling through the districts, and conversing with the authorities, he was of opinion that if the Act was withdrawn or placed in abeyance, the old condition of things would return. Subsequently, however, the merchants and others interested in the cotton trade continued to press their views on the Government, and in 1873 they were particularly persistent in expressing their wish that Government would reconsider the subject and, if possible, withdraw the taxation under this Act. The Government then, early in 1874, appointed a Committee, of which the Honourable Mr. Rogers was president and of which I also was a member, and the duty of this Committee was to take evidence and report to Government whether, in the opinion of the Committee, it was advisable that the Act should be either modified, or placed in abeyance, or repealed. We sat for some months, and though (I regret to say) the mercantile community were very persistent in their representation to Government praying that the Act should be done away with, and stating that they would be ready at any time to produce evidence in support of their petition, they did not think proper, as a body, to give us any assistance whatever. Instead of the chief men coming forward and explaining fully the grounds on which they based their request to Government, they contented themselves with writing to the newspapers; and as I have before said, few, very few, of the leading members of the Bombay mercantile community chose to come forward and give evidence before the Committee in this matter in respect of which they had persistently stated that they were prepared to do so. Well, the evidence, such as it was, we took, and to the best of our ability we considered it. The Committee, after fully discussing and weighing everything they could think of on both sides, were of opinion that the time had arrived for placing the Act in abeyance, that is to say, the Honourable Mr. Rogers and the rest were of that opinion. I was opposed to that view, and I wrote a separate memorandum stating that in my opinion the Act had not only proved efficacious, but was necessary to be continued, and that if any attempt was made to modify it materially or to place it in abeyance, the state

of fraud and adulteration, which previously made our cotton a disgrace and a by-word in Europe, would be again established. The report of the Committee was submitted to the Bombay Government, and the Bombay Government, concurring therewith, recommended to the Secretary of State that the Act should be placed in abeyance. The Secretary of State, however, after weighing the whole matter, came to the conclusion that the weight of evidence was on the other side, and directed this Government to maintain the Act as it then existed, modifying it slightly in those portions where modification seemed desirable, and also making it more stringent where increased stringency was manifestly necessary. Further representations were made by the Chamber of Commerce, protesting against this decision of the Secretary of State, but he again carefully perused the papers and then caused it distinctly to be understood that his previous order was final. Accordingly, the Act was not cancelled, but the wishes of the Marquis of Salisbury were, by the orders of H. E. Governor in Council, carried out, and a draft Bill has been prepared, which I now request the Council's permission to introduce. There being a few alterations in the Bill modifying the Penal Code, the sanction of the Government of India is necessary. It has been applied for, but I am sorry to say the answer has not been received. It is, however a mere matter of form, and will come, of course, in due time. His Excellency the Governor has been good enough to allow me to make these remarks at the present time, in order that they and the Act may be before the public, and that when the Council meets in Bombay, this question, which affects the mercantile community, may be considered and discussed at the place where the mercantile interests will best be able to make any representations on this important matter. With these preliminary remarks I will conclude, and request the permission of the Council to introduce a Bill to amend Bombay Act IX. of 1863.

The Honourable Mr. ROGERS :—With reference to the Honourable Mr. Ravenscroft's remarks, I presume the Council understands his proposal is more to be allowed to bring in a Bill than *the* Bill which has been printed and laid before the Council. There are several matters on looking over the Bill—matters of principle—which I think are not only wrong, but contrary to the instructions of the Secretary of State himself. If we are now to discuss the principles of this Bill—

His Excellency the PRESIDENT :—I don't think so. I understand the Honourable Mr. Ravenscroft to move for leave to bring in a Bill. The Bill, if leave be given, I suppose will be published in the *Government Gazette*, according to rule, a certain number of days before it is to be discussed by the Council. What the Bill is to be, we do not at present know.

The Honourable Mr. ROGERS :—If that is understood, I have nothing further to say ; but as the Bill stands now, there are several matters to which I strongly object.

The Honourable Mr. GIBBS :—The 13th section of the rules provides that any member may move to bring in a Bill, and state as concisely as may be the scope of the Bill and his reasons in support of it, and "if the motion be carried in the affirmative he shall send the Bill to the Secretary with a full statement in writing of its objects and reasons and such other papers as he may consider necessary." If he has leave to bring in a Bill, then he may send the Bill to the Secretary.

The Honourable Mr. ROGERS :—If that is understood, I offer no further opposition.

His Excellency the PRESIDENT :—Our position is peculiar. The Bill is intended to carry out the intention of the Secretary of State.

The Honourable Mr. ROGERS :—I think I can show that the Bill as it at present stands is not in accordance with the views of the Secretary of State.

His Excellency the PRESIDENT :—I believe his desire is that the Bill should be made more efficient and less disagreeable ; and the Honourable Member and the Honourable Mr. Ravenscroft differ apparently as to the mode of attaining that object.

The Honourable Mr. ROGERS :—At present, I think, the result would be to make it more disagreeable and less efficacious.

His Excellency the PRESIDENT :—I understand, then, there is no objection to give leave to the Honourable Mr. Ravenscroft to bring in the Bill, and it may be sent to the Secretary and published in the *Government Gazette*, with its objects and reasons. The motion for the First Reading can then be made in Bombay.

The Council then adjourned.

By order of His Excellency the Governor in Council,

G. C. WHITWORTH,

Acting Under Secretary to Government.

Poona, 4th October 1876.