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*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 Bombay on Tuesday, the 17th December 1878, at noon.

#### P R E S E N T :

The Honourable J. GIBBS, C.S.I., *President*.  
 The Honourable L. R. ASHBURNER, C.S.I.  
 The Honourable the ADVOCATE GENERAL.  
 The Honourable E. W. RAVENSCROFT, C.S.I.  
 The Honourable DOSABHOY FRAMJEE, C.S.I.  
 The Honourable SYUD HUSSAN EL EDROOS, C.S.I.  
 The Honourable M. BALFOUR.  
 The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.  
 The Honourable MORARJEE GOCULDASS, C.I.E.  
 The Honourable Sirdar MUDHOJIRAO ZANRAO NAIK NIMBALKUR.

Papers presented to the Council.

The following papers were presented to the Council :—

1. Report of the Select Committee appointed to consider and report on Bill No. 3 of 1878 (A Bill to provide for the levy of fees for the use of Government landing-places in the Port of Kurrachee).
2. Letter from the Secretary to the Government of India, Legislative Department, No. 1400, dated 29th October 1878, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.



3. Letter from the Secretary to the Government of India, Legislative Department, No. 1429, dated 12th November 1878, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to amend the law for the prevention of adulteration of cotton and for the suppression of fraudulent practices in the cotton trade.

The Honourable Mr. ASHBURNER moved that Bill (No. 3 of 1878) to provide for the levy

Mr. Ashburner moves the second reading of Bill (No. 3 of 1878) to provide for the levy of fees at Government landing-places in the port of Kurrachee.

of fees for the use of Government landing-places in the Port of Kurrachee be read a second time. Mr. Ashburner said he had merely to lay before the Council the Report of the Select Committee. It was not necessary for him to make any further statement. He called upon the Secretary

(Mr. Nugent) to read the Select Committee's Report.

The Report of the Select Committee having been read,

The Honourable Mr. MORARJEE GOULDASS asked if any representations or petitions had been received from Kurrachee in connection with this Bill.

The Honourable the PRESIDENT :—None.

The Bill read a second time.

The Bill was then read a second time.

The Honourable Mr. ASHBURNER moved that Bill No. 8 of 1878 (Bill to further amend Act XIII. of 1856) be read a first time. He said the

Mr. Ashburner moves the first reading of Bill (No. 8 of 1878) to further amend Act XIII. of 1856.

objects and reasons for the Bill were clearly set forth in the Statement of Objects and Reasons, and it appeared to call for no further remark.

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

The Bill was then read a first time.

The Honourable Mr. ASHBURNER next moved that the Bill be referred to a Select Committee, consisting of the Honourable Dosabhoj Framjee, the Honourable Morarjee Goculdass, the Honourable E. W. Ravenscroft, and the Mover, with instructions to report within one month.

The Honourable the PRESIDENT :—Is that necessary? The Bill affects no one but the Police.

The Honourable Mr. ASHBURNER said a suggestion had been made by Sir F. Souter, which he thought should go to the Select Committee. His Excellency the Governor had not yet seen it.

The motion was accordingly adopted.

The Honourable the PRESIDENT :—The next item on the Agenda is the first reading

Mr. Gibbs moves the first reading of Bill (No. 10 of 1878) to facilitate the introduction of the Bombay District Municipal Act into Sind.

of Bill (No. 10 of 1878) to facilitate the introduction of the Bombay District Municipal Act into Sind. I have charge of this Bill, and I will proceed to move that the Bill be read a first time. The objects and reasons which

render this Bill necessary have been printed and published and are in the hands of Honourable Members. It is really and truly a Bill to get over a legal difficulty, which has principally occurred owing to the Government of India, in one of their general repealing Acts, having repealed certain clauses, which in ordinary Acts would be of no consequence after the Act had once come into force; but when we wanted to extend this Act to Sind, we found that the repeal of these clauses had caused a difficulty to arise, and the present Bill is introduced to get over that difficulty, and also to clear up certain doubts which were entertained whether the Bombay District Municipal Act was not applicable to the Province of Sind as well as to the remainder of the Presidency from the date when the assent of the Governor General was given to it.

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

The Bill was then read a first time.

The Honourable the PRESIDENT next moved that the Bill be referred to a Select Committee, consisting of the Honourable the Advocate General, the Honourable E. W. Ravenscroft, the Honourable Morarjee Goculdass and the Mover, with instructions to report within six weeks, and that the Report be translated and published in Sindi.



This motion was adopted.

The Honourable Colonel MERRIMAN :—I beg to move the first reading of Bill (No. 11 of 1878) to provide for irrigation in the Bombay Presidency.

Colonel Merriman moves the first reading of Bill (No. 11 of 1878) to provide for Irrigation in the Bombay Presidency.

Honourable Members will recollect that, in 1876, the necessity for legislation in this respect was prominently brought to notice. Reports were then received that the people were constructing wells along the banks of the new canals, into which the water from the canals flowed or percolated, and that irrigation was being carried on from these so-called wells without any payment of water-rate. I may mention that the geological formation of the Deccan is peculiarly favourable for a tapping process of this nature. The Government at that time directed a Bill to be prepared to protect their interests against all forms of surreptitious abstraction of water from Government canals. Subsequently, as other difficulties arose, notably in connection with water-courses (including the distribution of water to the people) and the supply of labour required in cases of great emergency to avert calamity and extensive public loss, the Government also directed that provisions should be made in the same Bill to meet these cases. I just mention these facts to show that the subject has been under consideration for some time past; but before any definite action could be taken upon these orders, the famine made its appearance, and while its pressure lasted, the Irrigation Bill had to be set aside. On the whole, however, I venture to think that the delay has been productive of more good than harm, because the famine has certainly proved the very great importance of doing all that is practicable for increasing the water-supply and the protection against drought in many parts of the Deccan, which can only be effectually done by means of very large irrigation works. Experience goes to show that wells and small works dependent upon purely local rain-fall are very liable to fail entirely in bad seasons. As an instance, it is not, I think, too much to say, that but for the Ekrook tank and its small perennial canal in the neighbourhood of Sholapur, that town would have had to be entirely abandoned at the end of 1876, or the early part of 1877. Then opportunity has been afforded of observing the action of the people in respect to irrigation works during the bad seasons of 1876 and 1877. In 1876, for the most part, they kept on hoping for rain until it was too late to take canal water. In 1877 they were wiser, and there was a very considerable extension of irrigation. In 1876-77 the area under command was 210,318 acres, and the area actually irrigated 17,059 acres, whereas in 1877-78 the area under command was 244,137 acres, and the area irrigated 25,387 acres. This is, however, a very small proportion, and it is obvious that if the country is to be properly irrigated, and the works are to be financially successful, some measures for a more speedy utilization of the water must be adopted. Then, again, the subject can now be considered in connection with the recently proposed scheme of Provincial Finance. The Government of India could not, without setting aside principles repeatedly enunciated, throw upon the taxpayers of India at large the burdens caused by works designed to provide for purely local necessities. The interest charges, while the works are under construction, will of course have to be met, and doubtless will be met, by a general scheme for mutual insurance or protection against the evil effects of drought among the various provinces, but as soon as the means of irrigation have been actually provided, these charges should certainly then be placed on the locality benefited, and until the ordinary income expands sufficiently to cover interest and working expenses, it is proposed to meet the deficiency by levying a small water advantage or insurance rate, not exceeding 8 annas per acre, upon all protected cultivable land which is not paying any water-rate. I may mention that the people in the Northern Deccan are accustomed to the levy of a cess somewhat analogous to that proposed in the Bill, to meet the cost of working expenses of their own channels. This cess used to run as high as 11 annas per acre on sugarcane and 5 annas on other irrigated crops. It is now, I believe, only 4 annas on sugarcane, and 2 annas on irrigated land on which other crops are grown. The people pay it voluntarily and admit its equity and utility. The present Bill embraces all the points I have alluded to and some few others; but the necessity for this legislation is very clearly set forth in the Statement of Objects and Reasons, and I do not think I need take up the time of the Council by going into any further details on these subjects. I would like to say a few words regarding the general policy of the Government with reference to irrigation works at the present time. Including the share of normal outlay due to an expenditure of about 30 lakhs of rupees incurred during the famine period upon 18 new works which were carefully selected with a view to the mitigation or prevention of famine in future, the Government has already invested a capital



sum of about 132 lakhs of rupees (direct charges) upon all the irrigation works and projects in the Bombay Presidency, exclusive of Sind, *i.e.*, in the Deccan and Guzerát. The expenditure has been distributed, for the most part, over the last 15 years, and the works are in various stages,—some few in operation, and others in partial operation only, while several are under construction and not yet brought into operation at all. The policy of the Government is to complete all these works within the next 5 or 6 years at a cost of 83 lakhs of rupees (direct charges), and, if suitable financial arrangements can be concluded, to supplement six existing canals with storage lakes, at a cost of 29½ lakhs of rupees (direct charges), and further, to commence, and partially complete, within the same period, 14 new works estimated to cost 113¾ lakhs (direct charges). These works will be carried out in various parts of the Deccan and Guzerát. I may mention that a programme of works, with forecast of expenditure amounting to 200 lakhs of rupees, for the five years ending 1883-84, has been prepared at the desire of the Government of India and submitted to that authority. Should this programme be sanctioned, our position may be stated somewhat as follows:—At the end of the next seven years we should have a series of works, having an unfailing supply of water and capable of completely protecting an area of 1,231,834 acres, of which 514,831 acres could be irrigated annually. The progress would, of course, be gradual, in fact very gradual. On the basis of results arrived at in connection with existing large works, it may safely be assumed that the schemes will pay their working expenses in the second or third year after they are brought into operation, and that at the end of the tenth year they will cover the interest as well as the working expenses. It is calculated that the ultimate results may be looked for about the end of the fifteenth year. I need scarcely enlarge upon the enormous benefits that will be afforded by the construction of such works in a country liable to be stricken with drought, and over portions of which the rainfall is always more or less precarious. The penal clauses of the Bill have received the approval of the Government of India, and no objection has been raised to the Bill in its present form by the Secretary of State. With these remarks I beg to move that the Bill be read a first time.

The Bill was then read a first time. It was resolved, on the motion of the Honourable Colonel Merriman, that the Bill should be referred to a Select Committee, consisting of the Honourable L. R. Ashburner, the Honourable E. W. Ravenscroft, the Honourable Colonel Anderson, the Honourable Dosabhoj Framjee, the Honourable Morarjee Goculdass, and the Mover, to report within two months, and that the Bill and the Select Committee's Report be translated into Maráthi, Gujáráti, Kanarese, and Sindi.

The Honourable the PRESIDENT moved the first reading of Bill No. 12 of 1878 (A Bill 'to consolidate the land and other property vesting in the Trustees of the Port of Bombay, and certain other lands and property on, or connected with the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in the one Public Trust; and for other purposes'). He said:—The Statement of the Objects and Reasons which necessitate this Bill has been published, and is in the hands of Members of the Council. I may perhaps, however, give a short history of the management of the foreshore of Bombay down to the present time, and I think this alone will show the necessity for the Bill, the first reading of which I have now to move. It will be remembered that, on the purchase of the Elphinstone Estate, an Act was passed in this Legislature, by which that estate was made over to a body of gentlemen, called the Port Trust, consisting of 12 members, who had the entire management of property, with the bunders belonging thereto, and including the large works of the Prince's Dock, now under construction, and which we hope will shortly be opened. As the Trust went on managing this large property, the natural consequence was that the other bunders on the foreshore of Bombay, such as the Sassoon Dock, the Jamsetjee Bunder, the Mazagon Bunder, and the Frere Company's bunder, were more or less in competition with the Elphinstone Estate. After some years' experience of the working of the Trust, and after some months' discussion, the Government of India came to the conclusion, on the report and suggestions made by this Government, that there were only three courses open—either to openly allow a competition pure and simple, to purchase the other properties and convert the whole into one large Trust of the Port of Bombay, or to get the other owners of foreshore property to consent to one fixed tariff of prices. As for the last plan, immediately the suggestion was made, it was found utterly hopeless that anything of the kind could be carried out. In consequence of this, the Government of India decided

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

Mr. Gibbs moves the first reading of the Bombay Port Trust Bill (No. 12 of 1878).



that competition must be allowed to go on; but at the same time they submitted the matter to the Secretary of State at Home with a recommendation that the other properties should, if possible, be combined with the Elphinstone Estate, and that the whole foreshore of the harbour of Bombay should be managed by one body. The Secretary of State approved of the general principle of the whole foreshore being managed by one body, and made certain suggestions, one of which was founded on what was called the Mersey Docks scheme of Liverpool. There, some years ago, it was found that the competition going on between the different dock-owners had gone beyond the limit to which healthy competition might be allowed to extend, and that something was necessary to be done to put a stop to further competition, which might lead to ruin. In consequence, the dock-owners of Liverpool joined together and formed a Trust under an Act of Parliament, which is called the Mersey Dock Trust Act. The suggestion was thrown out by the Secretary of State that we should consider whether a similar plan could not be carried out in Bombay; but, at the same time, he admitted that there might be a necessity for purchasing the private properties from the owners, and so constituting a Trust. The matter has been very carefully considered, and a good deal of correspondence has taken place between the Government of India and this Government and the Secretary of State. Much of that correspondence has already been published in the *Government Gazette*, and by it the public have been informed that we have arrived at the conclusion that the best, and only satisfactory, plan to adopt will be to purchase the other properties and throw the whole under the management of one Trust. This Bill has been drafted very carefully. In it there has been included the present Port Trust Act, with such alterations as experience has shown to be necessary, and it has also been prepared with a view to give the new Port Trust—provided that it be, as proposed herein, an elected body—greater powers than the present Trust (the members of which are nominees of Government) possesses. In fact, it is proposed that instead of having to refer a great many matters to Government, there should be a broader principle laid down—that they should submit, for instance, the yearly Budget and the establishment lists, but that they need not report every little measure, every lease they grant and every piece of land they sell, as they do at present. They will also have to report, as part of their Budget, what dues they propose to levy on the Dock and other properties. That is, generally speaking, about the amount of Government interference that this Bill provides for. The purchase need not necessarily have formed a measure for the consideration of this Council, but it was deemed desirable by the Secretary of State and the Government of India that such should be the course. The Bill as published comes before this Council in rather a different form to what Bills generally do. I will read the clause of the letter of the Government of India which explains how the Bill comes before this Council and what is expected and hoped will be the result of the action of this Council:—"On the whole, then, the Governor General in Council accepts the proposals of the Government of Bombay as put forward in paragraph 36 of your letter, and agrees to their being laid before the local Legislative Council in the form of a Bill, on the result of the discussions on which the Government of India will base their ultimate decision and orders. The draft of this Bill should be submitted for previous examination by the Government of India, in order to ensure the sufficiency of the financial security that it will offer to the Imperial and Provincial Revenues,"—I may mention that this has been done, and a telegram was received on Saturday giving the sanction of the Government of India to our proceeding with the consideration of the Bill,—“and I am to suggest for the consideration of His Excellency the Governor in Council that the sums ultimately to be fixed as payable for the properties to be acquired, and the rate of interest of guarantee should, in the first instance, be omitted, to be filled in when the Bill has been generally accepted, and the public discussions have shown that the Secretary of State's condition would be complied with.”—You will notice that this has been done, and that the items have been left blank—"The Bill might also be looked upon as avowedly introduced to enable this discussion to take place, and therefore to be open to modification in its details as it passed through the Council." The last sentence of this paragraph of the letter is very important, because it shows that this is a Bill which, although it has been drafted as carefully as we could draft it in accordance with what we thought were the wishes of the Secretary of State and the Government of India, still it is not like many Government measures introduced into this Council, which are carefully considered first and put forward in the form in which the Executive Government think they should be carried. In this instance that is not the case. The Bill is introduced in its present form with the full wish and intention that it should be carefully discussed; that the public should have an opportunity of representing to the Legislative Council and the Executive Government their views in the matter; and that when the purchases are finally



made and the Act becomes law, it will be with the full consent of the trading community of Bombay. Amongst the important points which it will be necessary for the Select Committee to consider very carefully, may be said to be the election of the Trustees for the new Trust, and the subject of the guarantee. The subject of the guarantee has been treated in this Bill on a precedent taken from the original agreement between the Government and the G. I. P. and E. I. Railway Companies, and I think also the Baroda Railway Company. The form of guarantee has subsequently, I believe in the case of one of these Companies, been altered; but I believe the same form is still in force with the East Indian Railway Company. It has been adopted in this Bill because it seemed to those concerned in the preparation of the Bill to be a very simple method of guaranteeing the Provincial Revenues against loss in the management of this Port Trust. The next point is the plan proposed for the election of members of the Trust, which is that five should be elected by the Chamber of Commerce, five nominated by Government, and two native members nominated and elected by the ten Trustees so already chosen. I believe I may say that those who had the drafting of the Bill were of opinion that the adoption of this mode of election would most probably lead to the least possible alteration of the constitution of the Trust up to the present time,—that what the Trust has been up to the present time is thus most likely to be continued. One principal difficulty that we had to contend with was that there is no organised association of Native merchants as there is of European merchants, to whom the appointment of certain members of the Trust might be confided. It was proposed—and I see in one of the newspapers of to-day the suggestion is thrown out—that the voting might be according to the amount of dues paid by the various Native merchants to the Port Trust; but on making inquiries from the Chairman of the Port Trust, we found that there was not that carefully prepared return, which is provided for under the Act of Parliament which constitutes the Mersey Dock Trust, for arriving at a safe conclusion on that point. We have therefore in this Bill adopted the plan which you find stated therein. It may possibly be the case that in the discussions in the Select Committee a better plan may be pointed out. If so, I have no doubt this Council will consider it most carefully, and make any alterations they think may be made so as to carry out the wishes of the Government in regard to this Trust in a more satisfactory manner than we have been able to do in drafting the Bill. The only other topic which I need touch upon is the amount to be given for the several properties. Those amounts have already been placed before the public by the publication of the correspondence which has taken place. They are not conclusive in all cases; in some of them the offers have been accepted; but they will now come under the further consideration of the Executive Government of the Government of India, with whom will rest the final decision of the amount to be given in each case. The settlement of these amounts will not be a matter for this Council, but before the Bill has passed through this Council, those figures will be finally added which the Government of India, in communication with this Government, have arrived at as the amounts to be paid. I do not think there are any other observations with which I need trouble the Council on this subject. It is a very important measure; but after having very carefully watched the proceedings of the Port Trust from the time I came into the Council to the present, I feel perfectly certain that a well organised Port Trust of the nature proposed will be for the benefit of the Trade and all persons concerned therein. I believe that it will lead to the most moderate fees being charged, and that at the same time it will give increased confidence to all who have anything to do with the Port. With these observations, I will move the first reading of the Bill.

The Honourable MORARJEE GOULDASS said he would reserve anything he might have to say on the subject of the Bill for the Special Committee.

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

The Bill was then read a first time.

On the motion of the Honourable the PRESIDENT, the Bill was referred to a Select Committee, consisting of the Honourable L. R. Ashburner, the Honourable the Advocate General, the Honourable E. W. Ravenscroft, the Honourable Colonel Merriman, the Honourable M. Balfour, and the Honourable Morarjee Goculdass, with instructions to report within one month, and it was resolved that the Bill and the Report of the Select Committee be translated into Gujuráti.

The Council was then adjourned *sine die*.

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

Bombay Castle, 17th December 1878.

JOHN NUGENT,  
Under Secretary to Government.