11-4-79

THE

Bombay Government Gazette.

Published by Authority.

TUESDAY, 8TH APRIL 1879.

☞ *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 Thursday the 27th March 1879, at noon.

PRESENT:

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., C.I.E., Governor of Bombay, *Presiding.*
The Honourable J. GIBBS, C.S.I.
The Honourable L. R. ASHBURNER, C.S.I.
The Honourable the ADVOCATE GENERAL.
The Honourable E. W. RAVENSCROFT, C.S.I.
The Honourable Colonel W. C. ANDERSON.
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.

Paper presented to the Council.

The Report of the Select Committee appointed to consider the Bombay Port Trust Bill was presented to the Council.

Mr. Gibbs moves the second reading of the new Bombay Port Trust Bill.

The Honourable Mr. GIBBS moved the second reading of Bill No. 12 of 1878 ("a Bill to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other 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 one Public Trust, and for other purposes"). The Honourable Mover said :—It will be in the recollection of the Council that I moved, I think on the last occasion on which we met,

for an extension of the time in which the Select Committee were to produce their report on this matter. I may inform the Council that the Select Committee met several times and most thoroughly and completely discussed this Bill in all its branches : we having been informed that Her Majesty's Secretary of State was very anxious that the Bill should be considered in every possible phase of light, and that if any opposition was raised to the Bill, such opposition should be carefully inquired into and considered. Finding that in the Council there was a pretty general *consensus* of opinion in favour of the measure, and that in consequence there was not much prospect of what would be called a debate, the Select Committee considered it better to ask the Chamber of Commerce and the present Port Trust authorities to meet them and discuss the measure, and put forward any opposition or any objections they might have to the Bill. Accordingly, at one of the meetings of the Select Committee, deputations from the Chamber of Commerce and from the Port Trust attended, and we had a very considerable and lengthy consultation with those gentlemen; and I may say that although there were some points brought forward on which a considerable amount of discussion took place, there was not, either on the part of the Chamber of Commerce or on the part of the present Port Trustees, any desire to oppose the measure as a whole. Having heard all these gentlemen had to say, we then proceeded to discuss the Bill in detail, and the Council will find, on comparing the Bill as amended by the Select Committee with the original Bill, that very considerable alterations have been made in it, some of which I shall presently proceed to notice more in detail. The Bill is now, I think, in as complete a state as it was possible for the Select Committee to reduce it to. One of the principal causes which has led to the delay in the presentation of the Report of the Select Committee, was that a correspondence was going on between this Government, the Government of India, and the Secretary of State, as to whether the Select Committee were or were not to fill into the Schedule as drafted in the Bill first published by the Government, the amounts to be given for each individual property. After several references home, it was finally determined that, as there seemed to be no chance of the arrangements between each separate Company being come to for some time, the better plan would be to pass the Bill in the form which the Select Committee now present it, namely, authorising the Secretary of State in Council to purchase the properties mentioned in the Schedule of the Bill, or such portions of them as he may think fit, within a certain limited sum. The Select Committee, after hearing the Chamber of Commerce upon different points of the Bill, finally asked them to favour us with their opinion as to the value to be paid for the different properties proposed to be purchased, and the Government received from them subsequently a letter stating what they thought should be the amount. That letter was considered by the Select Committee at a subsequent meeting, but as we found that we were not to go into detail, it was considered better, for the present at all events, to adopt the limit which was originally proposed when the purchase was first put forward in the correspondence between this Government, the Government of India, and the Secretary of State, viz., 80 lakhs. As I see that notice has been taken in the public Press of one or two of the points, I may mention, with regard to the 3rd para. of the Report, that a slight mistake has arisen in the statement contained in this para. It should have been rather that, although each of the different owners of property on the foreshore received a letter asking them whether they would consent to the formation of a trust on what is called the Mersey Docks scheme, strictly speaking it was the Chamber of Commerce alone who gave the clear and undoubted opinion that they would not recommend any arrangement under which the consideration of making over these properties to the management of a Board should be guaranteed in the way stated there. The proposal was put to the various owners of foreshore properties in the following terms:—

From the SECRETARY to GOVERNMENT, to *(here comes the name of the particular Company)*.

GENTLEMEN,—I am directed to forward a proposal which has been made to amalgamate all the foreshore properties into one consolidated trust, something similar to that regulating the Mersey Docks; and I am to request that you will inform Government whether the Sassoon Dock Company will be willing to join in establishing such a trust on the basis herein proposed.

The whole of the foreshore properties, including the Elphinstone Estate and Docks, would be separately valued by competent and independent persons, and would be merged by consent of the owners, or, if necessary, by compulsory purchase in the usual manner, into a single trust.

Bonds representing the value of the respective properties would be offered to each owner. The management of the whole would be placed in the hands of a single Board of Trustees, of whom (say) one-third might be elected by the bond-holders, the Government exercising a voting power proportionate to the valuation of its share of the property; one-third by the merchants of Bombay who paid wharfage and dock fees to a certain amount; and the remaining third would be nominated by the Government of Bombay as representing the general public; and the whole Board would be presided over by a Chairman, to be a paid and permanent officer, specially selected and appointed by Government with reference to the duties that would arise in the management of so important a trust.

From the net income of the Trust a percentage of interest would be half-yearly declared on the bonds by the Board.

I have, &c.,

(Signed) J. M. Macdonald, Colonel,
Secretary to Government.

Marine Department, Bombay Castle, 7th August 1878.

That was the letter which was sent to each of the foreshore proprietors, and they all of them—one however with a modification—declined that offer. The letter which was received from the Chamber of Commerce dated the 20th August 1878, went more fully into the proposal, and I think without troubling the Council with reading it now, as it has been before them, I may say shortly that the principal reasons why the scheme suggested was not considered advisable, but a down-right purchase of the foreshore was preferred, was the difficulty that arose from a revaluation of the various properties, and especially of the Elphinstone Estate. The purport of the answers of the various foreshore owners was that they had a wish for an outright purchase of their respective properties, as being on many accounts, they thought, preferable to an amalgamation. This might have been stated more clearly in the 3rd para. of the Report, but I have now taken the opportunity of explaining it more in detail. It really comes very much to the same thing, viz., that the Mersey Docks scheme was not acceptable either to the owners of the foreshore or to the representatives of the trade of the port of Bombay. I now come to a matter which I have already alluded to, namely, the total amount within which the purchases are to be made. As I have said already, the Select Committee considered it best to retain the sum of 80 lakhs of rupees as the maximum amount to be paid for the whole properties, because that was the amount first proposed, and they, as a Select Committee, were not in possession of sufficient information to render it their duty to say whether that limit should be decreased or not. There were two or three points under discussion by the Executive Government, which I mentioned to the Select Committee, and which led them to come to the conclusion that it was better to place the figure at 80 lakhs, leaving it to the Council to alter it if they should think fit. There were some questions of alterations from the original offers, such as whether the entire property of one owner should be purchased, or whether the foreshore rights only should be taken; and there was also a considerable amount of doubt as to what sum would have to be paid for the ten small properties towards the Siwri end of the foreshore, about which we had received a report from the Collector, but on examining which we found that several of these properties could only be taken up after arbitration. As it is the experience of Government that arbitrators are often very arbitrary in their decisions, in these cases it was almost impossible for us to be quite certain regarding the price to be paid for these properties,—whether the arbitrators would give what we consider a fair sum, or go very much beyond it. That was an element of doubt which I mentioned to the Select Committee, and it was finally determined that we should leave the Bill as it came to us, with 80 lakhs of rupees as the limit. Now we have received from the Chamber of Commerce their valuation, which in round numbers for the entire properties, from the Sassoon Dock at the one end to the last of the small properties I have alluded to at Siwri, comes to 75 lakhs of rupees. The Chamber, if I understand rightly, were prepared to say it might be one or two lakhs more. That being the case, the question now for the Council to decide is whether the total sum within the limits of which the properties shall be purchased should remain at 80 lakhs, or whether it should be reduced to 77 lakhs. I think myself, and I believe I am speaking in the name of the Administrative Govern-

ment, that we think the 80 lakhs may safely be reduced to 77 lakhs. The five large properties may be taken, in round numbers, at 70 lakhs of rupees; the small properties, according to the estimate of the Collector, may be taken at about 5¼ lakhs, or say altogether 75 lakhs. Therefore, I think that, leaving a margin of two lakhs to cover some of the possibilities I have detailed to you—it may happen that we shall have to pay a little more for the smaller properties than we imagined—the Executive Government have come to the conclusion that 77 lakhs may fairly be put down as the limit within which the whole of the properties may be acquired. That will be in accordance with the recommendation of the Chamber of Commerce. I think, as far as at present advised, there appears to be no intention to pay for the five large properties, which are really the main objects in dispute, a larger sum than 70 lakhs of rupees, at which the Chamber of Commerce have set down their valuation. Therefore, when we come to consider the Bill in detail, clause by clause, it will be my duty to propose that the word "eighty" be altered to "seventy-seven." Then, there is another important matter on which I must make some observations, and that is the constitution of the Board. It was the wish of the home authorities, as well as of this Government, that in the new Board there should be a sufficient representation of the native merchants who are engaged in the trade of the port, and the question was how these gentlemen should be elected. Had the native merchants been, as they were in 1846, when I first came to the country, members of the Chamber of Commerce, along with the European firms, this difficulty might perhaps have been more easily got over; but some years after that date, I do not quite know when, a disruption took place, and now the Chamber of Commerce only represents the European mercantile community. If my friends the native merchants of Bombay would take a last word of advice from me, they would take measures for establishing without delay a Native Chamber of Commerce. We all know that the public at home are very anxious to hear the opinions of the trade of Bombay upon different questions, and the Government are also anxious to get such opinions; but it has always been a considerable difficulty to find out what the views of the native merchants of Bombay might be on any particular question. I think I am borne out in saying that the plan hitherto adopted has been to ask Mr. Morarjee Goculdass, Mr. Shapoorjee Bengalee, and one or two other leading merchants to favour Government with their views on the different subjects,—views which have always been regarded with great respect; but when sent home and commented on by the Manchester Chamber of Commerce or any of the other mercantile communities at home, they do not carry that weight which the opinions of a Native Chamber of Commerce would carry. I should strongly recommend the native merchants of this city to form themselves into such an institution without further delay. At present, we have come to the conclusion that there is really no tangible body to whom the franchise on this subject might be safely entrusted. It is very true that the native merchants may pay a much larger proportion of the dues of the port than do the European merchants, but I do not think that even the most advanced gentlemen of the native community, either of the Bombay Association or any other Association, would say that the native merchants of Bombay know as much of the principles of trade, not merely of the Bombay trade, but of the trade of foreign countries, as do the European merchants as a body. A great many of these native merchants know no other language but their own, and it would be impossible for the business of the Port Trust, either the present or the future Trust, to be conducted in any but the English language. Therefore, it is a *sine qua non* that the native members appointed to the Board should be gentlemen who are able to carry on oral discussions, and understand the minutes written by their brother members of the Board. English is the language of the Board, and members of it must know that language. This renders it more difficult to arrange for the nomination of native members of the Port Trust; and I may mention as a fact that on the last occasion when there was a vacancy for a native member in the present Board, although one of the leading native merchants of Bombay, who was himself a member of the Trust, and who once sat, with great credit to himself, as a member of this Council, was consulted, it was upwards of three weeks before he could point out a fit and proper native merchant to succeed to the vacancy. I mention this to show the great difficulty which arises in filling up the places of native members of the Trust. It is not wanted that the Trust should be composed of gentlemen who have no personal knowledge of or experience in the trade of the port. That is not what is wanted. What is wanted is that we should have traders who are engaged in the trade which will come into these docks—merchants who are engaged directly in the external trade of the port, and not purchasers afterwards of goods, but who have no dealings with the goods until after they are landed. What is really wanted is to have the merchants who are engaged in the external trade of the port mem-

bers of the Port Trust. They are the persons who are most interested in the docks and wharfage fees and every other part of the business of the Trust, and however highly educated other native gentlemen may be, who are quite competent to take part in municipal affairs and other public matters, they are not exactly the persons who are particularly required on the Port Trust. After consulting with several members of the native mercantile community, there being no class of persons to whom the franchise could be properly confided, it was determined that the appointments of the native members should be made, as now, by Government. I hope and trust this may be taken as merely a temporary arrangement. I am quite sure that so soon as an institution can be found to which the franchise can be safely committed, the Government of the day will be prepared to extend to that body the franchise which till that time it is proposed they should exercise, in trust for the native mercantile community, under the Bill now before the Council. It is for reasons similar to those I have now stated that the Executive Government have refused the request which has come to them from the Corporation, that that body should be allowed to nominate, I think, two members of the Trust. The next point which I have to notice in moving the second reading of this Bill is a point of minor detail. It is in connection with the 51st section of the Bill, about which the Council will have noticed some correspondence in the papers. It is in regard to the disposal of the balances. I may explain that the Government of India gave to the present Port Trust the boon of paying the interest on the purchase-money of the Elphinstone Estate yearly instead of half-yearly or quarterly. The result of this is that the Port Trust have had for the most part of every year a very large balance in hand upon which to work. Now, to show how this has worked hitherto. Of course you are aware that the new Prince's Dock has been going on, which has required large sums of money to be raised from the Government of India from time to time to carry on the works. Now, the permission of the Government of India to the Port Trust to pay their balances yearly had this effect. The total amount of interest is 8½ lakhs of rupees, and that sum of money has been at the disposal of the Trustees for carrying on these works during the year. It is only at the close of the financial year that the Trustees have taken up whatever sums of money they wanted from Government. They have made use of the money which otherwise might have been paid to Government, quarterly or half-yearly; they have made use of this interest on the capital for carrying on the works which has been a great boon, and so long as works go on it will be a great boon in the future. But when the Dock works are all finished, there will be a large sum of money, about 16 lakhs of rupees, which between the commencement of one financial year and its conclusion will be more or less in the hands of the Trustees, and what they are to do with that balance when they have no works going on upon which to expend it is a question of some moment. An objection has been taken to allowing the Trustees from time to time to invest that balance in Government stocks, and the reason is that it would rather put the Port Trust in a position of being likely to be accused of "rigging the market" occasionally, because they have large sums of money to invest and sell out from time to time. I will give an example. A few days ago, when the Financial Statement came out, Government paper, which had been at 94, fell at once to 92. Well supposing that happened at the close of the financial year, and the Port Trustees had purchased Government paper, say, 10 or 12 or 15 lakhs of rupees worth at 94, and were obliged to sell before the 31st March so as to pay the money into Government, and the price then was 92½, they would suffer very considerable loss. It was therefore thought unadvisable to oblige the Trustees to invest the money in Government paper, and having considered the matter very carefully, it was thought better to leave it as it now stands in the 51st section, which does not direct the Board to make any particular investment, excepting as regards the balance which may be in their hands on the 31st March. The balances which will be in their hands during the financial year are left unnoticed by this section, and I think wisely. Should the Trustees find, their monies being all paid into the Government Treasury, that Government are inclined at any time to take monies up from them and allow them four per cent. on them, there is nothing in the Act which prevents the Trustees from so lending. On the other hand, it is impossible for this Council to put in a section binding the Government to pay 4 per cent. on all balances, for we have no power to bind the Government of India to do anything of the kind; and after consulting with Colonel Baker, the present Chairman of the Port Trust, I have come to the conclusion that the best plan is to leave the 51st section as it is. There is also a letter from the Chairman of the Town Council forwarding a resolution of the Council, requesting that the amount of rates to be paid by the Trust to the Municipality should be fixed by Government in consultation with the Municipal Corporation. I am not aware what took place at that meeting of the Town Council, but I

may state that the terms as stated in the Bill, which will be found in the 36th section, were settled by the Municipal Commissioner and the Chairman of the Port Trust. They had to take into consideration the agreement which exists now between the present Port Trustees and the Municipality, and the sum of Rs. 10,000 which is payable yearly up to June 1883 was considered by the Municipal Commissioner, taking all the matters into consideration, to be a very fair sum, and rather liberal than otherwise up to that date. After that date, whatever payments are made will be as the Government may decide. It is useless to trouble the Council with the many difficulties which arise in the reconsideration of the three sections—36, 37, and 38, which rendered it advisable, in the opinion of the Select Committee, to leave them in the form in which they now appear. A letter has also been received from the Chamber of Commerce very lately, in which two matters are alluded to—one is that they wish the Act to provide for the Wari Bandar being surrendered by the Railway Company to the Port Trust, and the other that the Mody Bay Imperial Estate should also be made over under this Act. Well, there are difficulties in the way of carrying out what the Chamber of Commerce ask for. With regard to the Wari Bandar terminus, the matter has been for some little time under the consideration of Government in the Railway Department, and what has been done is to appoint a Committee composed of representatives of the Railway Department, of the Port Trust, and of the Municipality, with the Commissioner of Customs as President, to take into consideration the *pros* and *cons* of the subject and to recommend to Government the best way by which, at all events, the matter may be settled and the foreshore portion of the Wari Bandar Estate made over to the Port Trust, and under what terms. This is a matter which perhaps might have been much more easily settled three years ago, before the Prince's Dock was commenced; but now the fact of the Dock being likely to be opened very shortly adds considerable difficulty to arriving at a conclusion in the matter. However, it is under the consideration of the local Government, and whenever it is finally settled, it will require nothing more than a resolution of Government, with the consent of the Government of India, to make over that portion of the foreshore also to the new Port Trust. With regard to the Mody Bay Estate, it is rather differently situated. That is a matter which this Council cannot deal with at all, because it is Imperial property. It is now, under the present arrangement, placed in charge of the Port Trust until 1883. What will then take place, of course, it is impossible for the Government of the present day to state; but when the time comes to arrange either for the continuance of the present arrangement or to make a more permanent one, I am quite sure that the views of the Chamber of Commerce of the day will receive every possible attention. It is not possible to deal with this arrangement in the present Act. These are the only observations that I have to offer to the Council on the Bill as presented for the second reading. By the rules of the Council the second reading of a Bill confirms the principle of the measure. I have not alluded to the principle of the present measure in the observations I have made, because I take it that the necessity and wisdom of placing the whole foreshore in the hands of Government, under the scheme which has been put before the public, is one on which, with very few exceptions, there seems to be a *consensus* of opinion that it is the proper course to pursue. I myself feel convinced that the arrangements will result in placing the trade in the best possible position. I believe that leaving it in the hands of Government in the way proposed will bring down the burdens on the trade to the lowest possible amount. The measure has now been pending for a very long time— I am sorry to think it has been so long; I wish that matters could have been expedited more, because I feel certain that had we three or four months ago been able to close the bargains and throw 80 lakhs of rupees of Port Trust bonds on the market in Bombay, it would have been a source of very great relief to the mercantile community generally, and might have saved some from the difficulties which have arisen. However, that is a matter for which this Government is not answerable, because we are under the orders of a superior authority; but I believe that superior authority, in declining to let us have full power in the matter, thought that by so doing they would be able to afford the trade of Bombay greater protection than perhaps the Government of Bombay was prepared to do. I venture to doubt that fact myself; but at the same time I think the principle of the measure has not been assailed, no good objection has been raised against it, and I am quite sure that in this Council the proposal is looked upon as a wise measure for the benefit of the trade of Bombay. With these observations I beg to move the second reading of the Bill.

The Honourable MORARJEE GOCULDASS :—I shall vote for the second reading of this Bill, ut at the same time I beg leave to say that I give an affirmative vote, not because I

approve of the principle of a Government monopoly of the foreshore, but simply becauseas matters now stand any other course is scarcely possible under the circumstances. This state of things is the natural result of the Government purchase of the Elphinstone Estate, which is now admitted to have been a great blunder. It is this which has deprived us of the benefits of a healthy competition, so necessary for economy and the true interest of trade; and has led to the expenditure of vast sums of public money to complete reclamations and bandars far in advance of our wants. It is owing to this that trade has been artificially driven from its own and natural resorts in the native town, thus seriously depreciating the value of property. For instance, godowns in the native town which fetched formerly Rs. 150 a month now scarcely fetch Rs. 40 per mensem. This depreciation of properties has in many cases shaken the credit of the merchants owning them, and crippled their trade and enterprize. Had the property of the Elphinstone Company remained in its own hands, such a state of things would not have come to pass. Bandar facilities would have been furnished only as trade required, the competition between the several owners would have prevented high charges, and the large sums of money which had been years ago invested in large buildings and other facilities for trade in the native town would have remained remunerative. This cannot be considered advantageous to the interest of trade. All this, I submit, renders it doubly necessary that the provisions of the Bill should be very carefully considered, so as to reduce the evils of monopoly as much as possible. This remark applies specially to the sections relating to the constitution of the Port Trust and the valuation of the properties to be purchased. I will reserve my specific remarks and proposals regarding these matters till we come to the consideration of the sections concerning them.

The Honourable Mr. BALFOUR:—The Honourable Mr. Gibbs has discussed the Bill exhaustively and has anticipated the few remarks I intended to make, yet as I sat on the Select Committee I may say in a dual capacity, not only as a non-official member of this Council but also as the representative of the mercantile interests of this community, I think it right to say a few words. The Chairman of the Chamber of Commerce was good enough to ask me to watch the progress of this Bill through the Council, and by his invitation I sat on a Special Committee of the Chamber appointed to consider and report on its provisions. I was thus placed in a position to understand the views of the mercantile community in regard to the Bill. The Special Committee made a report to the members of the Chamber which was subsequently adopted. The Chamber of Commerce communicated their opinions to Government in a letter dated 6th January, and also made an oral report and representations to the Select Committee of this Council by a deputation from their body. I may say that every recommendation of any consequence made by the Chamber of Commerce has been carried out wholly or in part by the Select Committee, and adopted by them. In every point of view I think the wishes of the Chamber of Commerce have been thoroughly considered, and I think that what the Chairman himself said to the Chamber has been given effect to by the Select Committee. The Chairman of the Chamber of Commerce appealed to the Chamber to support him in seeing that the Act was carried through in a liberal spirit, that the right of the Chamber to elect members was maintained, that surplus revenue be only applied to improvements and reduction of rates, and that the capita. debt be put down at a figure which the commerce of the city can bear without taxing to the utmost her valuable resources. All these points, I think, Sir, have been carefully considered by the Select Committee and have been given effect to. I am assured by the Chairman of the Chamber that the Bill in its present form meets with the approval of the Chamber generally, and they have already taken steps to decide the manner in which they shall elect the five members to form Trustees of the Port Trust. I am sure that the manner in which they are proceeding to do their duty will make their proposal acceptable at once to Government and to the commercial community. So far as I know, there has been only one protest, which was published in the newspapers a few days ago, against the spirit of the Bill, and though I have not seen the signatures to that protest, I am informed that they are principally piece good dealers and petty brokers who have really no interest to speak of in the trade of the port. I think therefore that what the Honourable Mr. Gibbs has said I may safely confirm, namely, that the spirit of the Bill has met with the approval of the community generally. Your Excellency is aware that the special meeting of the Chamber of Commerce has again been summoned to consider a proposed protest against the maximum sum to be sanctioned for the purchase of all the private foreshore properties, being fixed at 80 lakhs of rupees, as stated in the Report of the Select Committee. I think that the suggestion of the Honourable Mr. Gibbs to reduce the amount to seventy-seven

lakhs will meet the difficulty. I am quite sure the Council is prepared to give every consideration to anything which may emanate from the Chamber of Commerce, and I am sure the Chamber are animated by no wish to interfere with the progress of the Bill so much wanted by the trade of the port, and when they see that the Council is determined to keep the purchase-money at the lowest possible figure, I think and hope this projected meeting will probably not be carried out. The Honourable Mr. Gibbs spoke of the position of the Government in regard to the Wari Bandar terminus. That is the only other point I will allude to. I may say that the deputation from the Chamber of Commerce who waited on the Select Committee, left under the impression that the Honourable Mr. Gibbs had promised them that the Wari Bandar terminus was to be made over to the Port Trust. I have heard, of course, the manner in which it is proposed to deal with this property, and I hope Government will be able to make it over to the Port Trust as a portion of the estate to be managed by them. The object, I am sure, of the Select Committee has been to constitute a powerful body with sufficient control over the large interests confided to them, and reserving only to Government that power which they should have in looking after so very large and valuable a property for the purchase of which they provide the means.

Bill read a second time and considered in detail.

The Bill was then read a second time, and on the motion of the Honourable Mr. Gibbs, the Council proceeded to consider it in detail.

With reference to Section 2, the Honourable Mover said that attention had had to be paid to the General Ports Act of the Government of India. Wharfage rights were defined to be immoveable property. Without such definitions it was rather difficult to express what property was to be made over.

With regard to Sections 5 and 6, the Honourable MORARJEE GOCULDASS said:—To these sections I have an objection to offer. The representation of the native element on the Board is not adequate to the native interest in the new Trust. The natives pay three-fourths of the fees collected by the Port Trust, and yet they are to have but three representatives out of thirteen; their interest in the town and its trade is permanent, while that of European merchants is often very limited in its duration, and yet the European merchants are to be given five members while the natives have only three. I think that the claim of the native mercantile community will be met by giving them five representatives, leaving four to the Chamber of Commerce and four to the official element. As to the objection that there are "great difficulties in the way of providing for the election of members of the Board by native merchants," because there exists no association of native merchants similar to the European Chamber of Commerce, I submit that no such difficulties will be felt, if a list of native merchants who have hitherto paid a certain amount of wharfage fees be prepared by the Port Trust and if such merchants be given the right of electing their representatives on the Trust. I notice that a suggestion similar to this has been made by a large number of native merchants in a memorial addressed to Government on the subject. The election of the nominees to the Liverpool Mersey Dock is done in a similar manner, the qualification, if I mistake not, being the payment of £10 in the shape of dues. We may raise the qualification-rate here to Rs. 200, so as to lessen the difficulty of "a complicated system of account-keeping and registration," which, I submit, can easily be removed by a body like the Port Trust, whose expenses for management and the keeping of accounts are said to be nearly 30 per cent. of the income. On these grounds I beg to move that sections 5 and 6 be so altered as to give effect to the nomination of five native trustees and their election by native merchants possessing the qualification as suggested above. As to the remarks of the Honourable Mr. Gibbs that as a great many of the native merchants of Bombay were unacquainted with the English language, it was therefore difficult to arrange for the nomination of native members of the Port Trust, I beg to say that if proper enquiries were made, there would be found amongst the native merchants a sufficient number of English-speaking persons well qualified to represent the native mercantile community on the Port Trust, and it is my firm conviction that there will not be the slightest difficulty in finding out persons of the requisite qualification.

The Honourable Mr. ASHBURNER said that the sections did not limit the number of native members to three. That was the minimum.

The Honourable MORARJEE GOCULDASS:—They are practically limited to three: there is no chance of more being elected.

The Honourable Mr. GIBBS:—With regard to the honourable member's amendment, I would simply state, in addition to what I said in moving the second reading, that the

opinion of the Select Committee, with the exception of the Honourable Mr. Morarjee Goculdass, was in the favour of the Board being constituted as here proposed, namely, five members to be elected by the Chamber of Commerce, and seven other members and the Chairman to be nominated by Government, it being provided that out of the twelve Trustees, not less than three shall be natives of India residing in the city of Bombay. That does not, as my honourable colleague opposite hinted just now, necessitate that three shall be the maximum number of native Trustees on the Board; because even supposing the Chamber of Commerce fail to elect one native member among the five Trustees whose election is proposed to be placed in their hands, still there is nothing to prevent Government nominating four or even five native members if it chooses. The only thing is there must be three as the minimum. At present there is no minimum, so that the Trustees might be all Europeans, but it has always been the custom to nominate two native members. I am of opinion, considering all the matters which affect this particular question, that the amendment of the honourable member should not be acceded to, but that the Bill should be left to stand as it now does.

The amendment was then put to the vote and lost, only the Honourable Mr. Morarjee voting for it.

When Section 7 was reached, the Honourable DOSABHOY FRAMJEE said:—The Honourable Mr. Gibbs has already informed the Council that the Municipal Corporation of the City of Bombay had asked to be allowed to elect from among their body two or more members for seats on the Port Trust Board. I am not prepared to go to the length proposed by the Corporation, but I think Government might fairly be asked to nominate at least one member of the Corporation. I am aware that in former years some of the members of the Corporation have had seats on the Port Trust Board, but still it would be better to make the nomination obligatory by law, considering that there are many conflicting interests between the Municipality and the Port Trust. I beg therefore to move that one of the nominees of Government on the Board shall be a member of the Municipal Corporation.

The Honourable Mr. GIBBS:—With regard to the observations of the honourable member, I may say that the letter from the Chairman of the Corporation to Government prayed on behalf of the Corporation that the defect in the Bill they alluded to should be met by providing for the due representation of the Municipality, by securing to the Municipal Corporation the right to nominate at least two of the members of the Board. But Government did not find itself in a position to accede to this. The Honourable Mr. Dosabhoy now wishes to have a provision introduced that one nominee of the Board should also be a member of the Corporation. I might almost say *de minimis non curat lex*, for no Port Trust has ever existed yet in which one, two or three members—I think on one occasion there were six such members—were not also members of the Corporation. It would, I think, be rather a puzzle for the Government to nominate to the Port Trust its eight Trustees without nominating some one who is also a member of the Corporation. At present Mr. Jacomb and Mr. Mathew are members of the Port Trust and are also members of the Corporation. I do not think the matter is of sufficient moment to require that I should say more. I have already stated why I consider it unadvisable for the Corporation to have the nomination of members of the Port Trust. I have no particular objection to the amendment, but I do not think it is worth the trouble of altering the Act for.

The Honourable Mr. DOSABHOY FRAMJEE:—Although there are at the present time members of the Corporation who are also members of the Port Trust, a contingency may hereafter arise when the Municipality may be entirely unrepresented, and with that view I have proposed the amendment.

The Honourable Mr. ASHBURNER thought that to restrict the action of Government by laying down a hard and fast rule that one of the members of the Port Trust should also be a member of the Municipal Corporation was objectionable.

The Honourable MORARJEE GOCULDASS:—The Municipality has to receive revenue in several shapes from the Port Trust, and I think it is necessary that there should be a member of the Municipality on the Board.

The Honourable Mr. GIBBS:—There is a practical difficulty which might arise. Supposing the term for which a gentleman was elected to the Corporation was not co-existent with the term for which he was nominated to the Port Trust, he would have to resign the Port Trust, when he ceased to be a member of the Corporation.

The Honourable MORARJEE GOCULDASS :—I do not think there would be any real difficulty in regard to that. The Corporation, in such a case, could recommend another gentleman to fill the vacancy.

The Honourable Mr. BALFOUR :—I venture to think that, considering the manner in which the members of the Corporation have hitherto been treated by Government, it would be an ungraceful act to insert a proviso in this Bill, compelling Government to nominate one member of the Corporation as a member of the Board of Trustees of the port of Bombay. I have heard no complaint of the manner in which Government have hitherto exercised the powers reposed in them, and I think they may be safely left to the exercise of their own judgment and discretion in nominating Trustees in future.

The Honourable Mr. DOSABHOY FRAMJEE :—With reference to the remark of the Honourable Mr. Balfour, I must say that there is nothing undignified in my proposal. The Chamber of Commerce have asked for the right of electing five members to the Port Trust Board and have got it. Certainly it is not undignified for the Municipality to ask for one representative. However, in deference to the views which have been expressed by the several honourable members I am not inclined to press my motion on the Council.

The motion was accordingly withdrawn.

With regard to section 8, the Honourable Mr. GIBBS said this was an alteration made by the Select Committee to prevent the whole of the Trustees going out of office at one time, so that there might be always at least half of the old Trustees to hand down the traditions which they in turn might have received from their predecessors.

The Honourable Mr. GIBBS said that in the 5th clause of section 22 a mistake had been made in printing. In the Select Committee the words "be entitled" in the 27th line were struck out, and after "retirement" the word "receive" was put in; but in printing the alteration had been omitted.

The alteration was made accordingly.

The Honourable Mr. BALFOUR suggested that clause 6 of the same section should be amended so as to meet the case of persons who were servants of Government, whose salaries were paid either from the fund known as the Bombay Port Fund or by Government.

The Honourable Mr. GIBBS :—That raises a very great question. Although nominally paid by Government, they were all paid from the Port Fund. We went into the papers very carefully, and I find the alteration proposed would benefit nobody but would give rise to a great deal of difficulty as regards some. Some gentlemen did receive pay apparently from Government, but it was debited to the Port Fund. I believe a learned Judge of the High Court ruled that one gentleman was a public servant, and therefore he could not under the Land Acquisition Act award him fees: but other circumstances were mixed up with that,—I believe he received an additional salary on condition that he did not take fees.

The Honourable Mr. BALFOUR said he did not desire to press the amendment.

The Honourable Mr. GIBBS :—The matter has been considered, and if the honourable member does not wish to press the amendment, I need not say anything more.

With regard to section 26, the Honourable MORARJEE GOCULDASS said :—I move that this clause be so altered as to include the portion of the Wari Bandar land which is to be received from the G. I. P. Railway Company and of Mody Bay Estate which lies west of Frere Road and which reverts to Government in 1883. With regard to the Mody Bay Estate, I would remind honourable members that the land given by Government in return for that taken at Wari Bandar for the G. I. P. Railway Company, namely, the Apollo and Wellington Reclamations, bring in a revenue of only about 1 per cent on their cost, while the trade pay 4 per cent, and from 1883 will pay 4½ per cent. It is but fair therefore that this Mody Bay land which, as pointed out by the Chamber, can only be made valuable by competition with the Port Trust, should be given to the new Trust. Government have probably no intention of resuming possession of this land, but it would be more satisfactory to have this stated in this Bill. Moreover, I would here remind honourable members that when the Mazgaon Land Company was sold for a very large sum—say about half a million sterling—this large amount went into the Imperial Treasury, while the burden of the three-quarters of a million sterling which we are going to pay for the purchase of the foreshore properties will be borne by the trade of the port. Under these circumstances I respectfully urge that honourable members will embody these suggestions into the Bill.

The Honourable Mr. GIBBS:—I think I have already met the observations o the honourable gentleman on this particular. The fact is if this Council were to make the alterations he suggests, not having the consent of the Government of India, we should be asked why we had given away another's property. We have no power to legislate with regard to property which belongs to the Government of India. Wari Bandar belongs to the Government of India and they have lent it to the Railway Company. A Committee has been appointed to consider the terms on which it can be taken back. The Mody Bay Imperial Estate also belongs to the Government of India. But the arguments of the honourable member might very well be forwarded to the Executive Department for consideration. It seems to me that it would be *ultra vires* for this Council to make the alterations suggested.

The amendment was then put to the vote and lost.

With regard to sections 29 and 30, the Honourable MORARJEE GOCULDASS remarked:—In the offers made by Government and recommended by the Chamber of Commerce the native community have not at all been consulted, and though I believe the sums offered for the various properties to be very high under the present state of things, yet taking into consideration the surrounding circumstances of the case, namely, the great ruin brought upon the owners of these properties by the competition of the Port Trust, I think it will be a kind of justice to them to pay them fairly. I therefore propose that specified sums be placed against each property so that there may be no more questions as to the prices to be paid to each owner.

The Honourable Mr. GIBBS:—The honourable member's amendment is with regard to Schedule A, to add to it the two columns which originally appeared in the Bill as it was first published, and to fill in against each of the properties the sum proposed to be paid for it. The objection to that proposal is that with regard to the last ten properties the sum to be paid for them is not known, nor can it be estimated, as I have already explained. And with regard to the others it is of no use for us to legislate as to what is to be paid for each of them, because this Council has no power to come to terms with the owners, nor has anybody that power except the Secretary of State. It was because this Government thought it advisable to do what this amendment now proposes, that the Select Committee were so long in making their Report, and the reason it is made as at present is because the Secretary of State refused to allow this Government to conclude the arrangement.

The amendment was lost.

The Honourable Mr. GIBBS proposed that section 30 should be amended by the substitution of the words "seventy-seven" for the word "eighty" in the 17th line.

His Excellency the PRESIDENT:—Do you think 77 lakhs will leave sufficient margin?

The Honourable Mr. GIBBS:—Yes. I went into the matter very carefully.

The Honourable Colonel ANDERSON:—In support of the propriety of reducing the outside total sum payable for the foreshore properties to 77 lakhs, I may state, as one of the officers entrusted with the conduct of the original negociations, that had it been permissible to conclude the negociations in July last, the whole of the properties might have been acquired at from 74 to 76 lakhs, assuming that the minor properties at the head of the harbour could have been acquired at 5 lakhs. The original offer actually made to the five large proprietors was, in round numbers, 60 lakhs. An additional 10 lakhs or a total of 70 lakhs would certainly have enabled the purchase of these properties to be amicably agreed upon. The estimate of 7 lakhs for the minor properties affords a full amount and margin on the 5 lakhs originally estimated for the small properties at the head of the harbour.

The amendment was carried unanimously.

In section 50, in the 7th line, the word "and" was substituted for "which."

With regard to section 72, the Honourable Mr. GIBBS said:—This section was open to criticism as first drafted, because it militated against the Government of India's Ports Act, and we had to put in a proviso about the persons who were to be appointed pilots. I now suggest that from the first and second lines the word "exclusive" should be omitted.

This was agreed to.

The Honourable MR. GIBBS, at the completion of the consideration of the Bill in detail, announced that he intended to move the third reading at the next meeting of the Council.

Time for presenting the Report of the Select Committee on the Irrigation Bill extended.

The Honourable Colonel MERRIMAN moved for an extension of the time allowed to the Select Committee on the Irrigation Bill to report, to the 1st of May. He said:—I desire to explain that the cause of the delay is owing to a despatch received in the early part of last month from the Secretary of State, calling for full explanation on two points in the Bill as originally introduced into Council, viz., sections 46 and 47. And also to a letter from the Government of India, received at the end of last month, referring to this despatch of the Secretary of State, and commenting on a few other sections of the Bill. These documents arrived just at the time when the Select Committee had almost brought their labours to a close, and pending the consideration of these communications by the Local Government, the action of the Select Committee was necessarily temporarily suspended. I need not enter into the details of the matters involved. It will suffice to say they have received careful consideration and I understand will be placed at the disposal of the Select Committee, who will then be ableto proceed with their duties. I might also mention that the Sarvajanik Sabha have recently favoured Government with their views regarding the Irrigation Bill and that that document will also be placed before the Select Committee. With these remarks, I beg to move that the time be extended to the 1st May next.

At the suggestion of His Excellency the President, the Honourable Colonel Merriman consented to alter the time of extension to the 10th April, in which form the motion was adopted.

His Excellency the President than adjourned the Council till Tuesday, April 1st.

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

J. NUGENT,

Under Secretary to Government.

Bombay, 27th March 1879.