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**COUNCIL OF THE GOVERNOR GENERAL  
OF INDIA**

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ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1873.

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1874.



*Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 21 & 25 Vic., Cap. 67.*

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The Council met at Government House on Tuesday, the 11th March 1873.

PRESENT :

His Excellency the Viceroy and Governor General of India, G.M.S.I.,  
*presiding.*

His Honour the Lieutenant-Governor of Bengal.

The Hon'ble Sir Richard Temple, K.C.S.I.

The Hon'ble B. H. Ellis.

Major General the Hon'ble H. W. Norman, C.B.

The Hon'ble A. Hobhouse, Q.C.

The Hon'ble E. O. Bayley, C.S.I.

The Hon'ble F. S. Chapman.

The Hon'ble R. Stewart.

The Hon'ble J. R. Bullen Smith.

The Hon'ble R. E. Egerton.

His Highness the Mahárájá of Vizianagram, K.C.S.I.

The Hon'ble J. F. D. Inglis.

The Hon'ble R. A. Dalzell.

The Hon'ble Rájá Ramánáth Thákur.

OATHS AND AFFIRMATIONS BILL.

The Hon'ble MR. HOBHOUSE asked leave to postpone the presentation of the preliminary report of the Select Committee on the Bill to consolidate the law relating to Oaths and Affirmations.

Leave was granted.

CENTRAL PROVINCES MUNICIPAL BILL.

The Hon'ble MR. HOBHOUSE also introduced the Bill to provide for the appointment of Municipal Committees in the Central Provinces, and moved that it be referred to a Select Committee with instructions to report in six weeks. He had explained to the Council, on a previous occasion, that the Central Provinces were in this position, that the Panjáb Municipal Act of 1867

was made extendible to them by the Executive Government, and that it had, in point of fact, been extended to a number of places. He had, indeed, no complete list of them, but he was informed that they were considerably upwards of a dozen. Now the Council would bear in mind that we had lately been legislating for the Panjáb Municipalities, and had passed an Act for that purpose, an Act which was founded almost entirely on the existing Act for the Panjáb, passed in 1867, but with some modifications in it. Well, then, in the Central Provinces we had the Panjáb Act of 1867 actually at work in the principal towns, and we were informed by the Government of the Central Provinces that the working of the Act was satisfactory, and that they desired nothing more than a repetition of the same thing which was done in 1867, namely, the extension to the Central Provinces of the law which had been enacted for the Panjáb. That, therefore, was the object of the very simple Bill which he had now to introduce. The Panjáb Act had been so recently before the Council that he need hardly go through the Act in much detail in order to explain what was proposed to be done for the Central Provinces. They would recollect that it was in the power of the Local Government to apply the Act to any town within its jurisdiction; then the Local Government might appoint Committees or provide for the election of Committees, and those Committees had the power of defining the persons and property to be taxed, and the taxes which they decided upon, when sanctioned by the Local Government, would have the force of law. There were some few modifications introduced by the recent Act into the system which existed in 1867, and had existed from that time onwards. All those modifications were in the direction of some greater deliberation and caution before any community was to be taxed. The Act now in force in the Panjáb provided that, before any town was brought within its operation, notice should be given, and that some time should elapse during which objections might be taken by persons who thought that the law was not applicable to their town, and those objections should be heard before the Act was actually applied. The same kind of process was to take place before any tax was imposed. The Municipal Committee had first to declare its intention of taxing particular property and persons. Then time was to elapse during which objections might be made, and it was the duty of the Government ultimately to hear those objections and to decide upon them. Moreover, power was reserved to the Supreme Government to lay down rules subject to which the whole power of taxation, whether over persons or property, was to work; and that, coupled with the time given for delay in making objections, seemed to us when we were discussing the Panjáb Bill to secure a very full

consideration of any objectionable tax or any objectionable extension of the law that there might be. That was the law which we now proposed to apply to the Central Provinces, the same as now existed, excepting that we introduced the same modifications as were thought proper to be put into the Panjáb Act.

The Hon'ble Mr. EGERTON said, having had the honour of serving for some time in the Central Provinces, he wished to express his belief that the Act which had been passed for the Panjáb was extremely well adapted for the Central Provinces, and would be as suitable to the Central Provinces as the former Act of 1867 had been.

The Hon'ble Mr. CHAPMAN said—"I desire to take this opportunity of saying that the course we are now adopting in respect to legislating for the constitution of municipalities is not in my opinion satisfactory. It seems to me that we are dealing with this most important subject in an incomplete and imperfect manner.

"A few weeks ago, my hon'ble friend, Mr. Egerton, succeeded in passing the Panjáb Act. I then condemned the bald character of that law, and the almost entire absence in it of provisions for regulating the constitution of municipalities and their powers in respect to taxation and administration. I specially objected to the utter want of legal control over the action of the Executive. Since then my hon'ble friend, Mr. Hobhouse, has obtained permission to introduce separate Municipal Bills for the North-Western Provinces and Oudh, the Central Provinces and British Burma. Unless I am much mistaken, each of these measures will be found to be of the same indefinite character in respect to principle and specific control. Now, my Lord, I am very decidedly of opinion that it is the duty of this Council to endeavour to deal once for all with this most difficult subject, in a broad, comprehensive, and thorough manner—in a manner which shall unmistakably indicate the policy and views of the Supreme Government. I can anticipate the objection that will be taken to this proposal. I shall be told that, owing to the varied conditions and circumstances of the different parts of this great country, it will be neither possible nor expedient to attempt to deal with the question of municipal government by one law of general applicability. I beg distinctly to disclaim any wish to attempt to deal with it by one law; but I am prepared to maintain that, as regards the main outlines and the principal provisions, it is our duty to pass a law, the principles of which would be applicable to all the Administrations which have not Legislatures of their own, and which would serve as a model for Madras, Bombay and Bengal.

“ I will notice, as briefly as I can, what I conceive to be the leading principles that would have to be dealt with; and how far they admit of being made generally applicable.

“ The first point would be the conditions under which municipalities should be established. I apprehend we should all agree to abandon the sham and farce of the voluntary principle, as contained in the old Act XXVI of 1850. Conceding, then, to the Executive Government, the authority to establish these bodies without regard to the wishes of the majority of the people, the next point for consideration would be, whether this authority should not be exercised subject to the fulfilment of certain conditions. For my own part I am of opinion that it would be very undesirable that the Government should have the power to establish municipalities wherever they pleased, irrespective of the size, population and tax-producing capacity of the place. I can conceive that the exercise of indiscriminate authority of this kind might give rise to many cases of hardship, and be productive of many instances of inconsistency.

“ But what I contend for is, that the question whether a limitation should or should not be imposed by law on the Executive is of a general character, the decision of which is in no way affected by local or provincial peculiarities. Having decided on the conditions under which municipalities should be established, the next point would be the constitution and form of government which should be provided for them. You will find in every part of the country, towns which vary in respect to numbers, wealth and intelligence of their inhabitants. These cities and towns ought, I think, to be divided into one or more classes, to each of which a municipal constitution should be granted, varying with the capacity of the inhabitants to undertake the responsibility of local self-government. In the smaller and less advanced class of towns, you might find it advisable to vest the chief control in official hands, merely utilizing the municipality as a pancháyat, or consultative body.

“ Then, as to the important subject of taxation, I admit that it would not be possible to lay down a fixed scale of taxes which could be generally adopted. In this matter, local associations, prejudices and feelings must be carefully studied and attended to. A tax that would be paid with comparative cheerfulness in one province might, if attempted to be imposed in another, give rise to the most serious disaffection. But admitting so much, I contend that there would be little or no difficulty in preparing a list, as has been done in the North-Western Provinces Act, of every authorized description of tax; and leaving it to

the municipalities and the Executive Government to select those they considered best adapted to their own particular circumstances. The maximum amount to be levied in each case should be clearly limited by law, and in the case of octroi-duties, they should be so regulated as to limit their incidence per head of population to a fixed sum. I would also provide for the annual publication, in the *Gazette of India*, of a list of all municipal towns in India, their population, and the amount of taxation to which they are subjected. It is only by some such means as this that you will be able to put a stop to and check the growth of the gross inequalities and anomalies which I believe to prevail at present.

“There is one point connected with municipal taxation to which I wish to draw the special attention of the Council. I allude to the question of taxing the multitudes, either by a capitation-tax or otherwise, who resort on certain fixed festivals to sacred places and *mélás*. It is a well established fact that these large gatherings are a most fruitful source of epidemic disease, not merely amongst the people who attend them, but to the whole surrounding country. For the disease generated at these places is spread far and wide by the multitudes on their homeward journeys; and this danger has been greatly increased of late years by the facilities afforded by railway communication. I maintain that a Municipal Bill ought to deal specially with this great evil. Here, again, there is no question of local peculiarities. If, for example, it is deemed right to tax, for the purpose of protecting them against disease and hardships, the crowds who resort to Pandharpúr to do honour to Vithoba, it surely is equally right to treat those who resort to Púri to worship Jaganáth in like manner. Of course the exercise of this right should be left to the discretion of the Local Government, but the principle should be affirmed by law.

“The next point to which I would refer is the power to be conferred on municipalities for enforcing conservancy and other arrangements for the health and comfort of the inhabitants. I admit that these powers must be of an arbitrary and summary character, and it seems all the more necessary to define them precisely by law. You must bear in mind that the exercise of these powers will greatly affect the every-day domestic life of the people. I hold in my hand a draft of a Bill for Mofussil municipalities in the Bombay Presidency, in which no less than forty-eight sections are taken up with minutely defining the extent to which the municipal bodies may carry their interference. In the Panjáb law, this important subject is airily disposed of in one section, which is to the effect that the municipality may, subject to the sanction of the

Government, make whatever rules and bye-laws they think best. Now, I contend that here, again, you have to deal with a principle of general application. It is either advisable to fence in the action of the municipality or it is not. And, as a rule, it may be safely said that, whatever powers should be conferred at Rangoon to suppress a nuisance or widen a street, should be given at Lahore.

“Lastly, I come to the very important question as to whether the performance of certain duties should be rendered compulsory on municipalities or not. On this point I entertain a very decided opinion that the Government should have the power to step in and insist on a certain amount of expenditure being incurred on such objects as water-supply, vaccination, and, perhaps, primary education. I would especially provide by law that it should be the first duty of a municipality to provide a good supply of water. The question I have raised as to rendering the performance of certain specified duties obligatory on a municipality may admit of much difference of opinion, but, once decided, the principle is, I maintain, of general applicability.

“I think I have now enumerated the main general principles that ought to be considered in passing a Municipal Bill, and I hope I have succeeded in showing that there ought to be no very great difficulty in deciding them either one way or the other.

“I am no advocate for undue centralization. I have the strongest faith in the great value of these municipal institutions, and it is because I believe them to be capable of conferring such vast benefits on the country, that I am anxious to see their duties and responsibilities clearly and precisely defined by law.

“I do not think I can do better than quote what His Honour the Lieutenant-Governor has said in his Administration Report on this subject :

“The Lieutenant-Governor has always believed that while, on the one hand, the task of really governing India down to the villages and the people is too great for the British Government, and, on the other, anything like national political freedom is inconsistent with a foreign rule, we may best supplement our own deficiencies and give the people that measure of self-government and local freedom to which both their old traditions and their modern education alike point, by giving to towns and restoring to villages some sort of municipal or communal form of self-government. Some years ago, when Chief Commissioner of the Central Provinces, he made a commencement of such a system in Nāgpūr and other towns. He has had that object especially at heart in these provinces, awakening, as they are, to a new light under the influence of the edu-



cation which we have given to so many of the upper and middle classes. Seeing, then, the very various and confusing nature of the municipal constitutions heretofore existing, the Lieutenant-Governor has thought it very desirable to consolidate and systematize the whole law on the subject, ranging municipalities in different classes, and prescribing a suitable constitution for each, in all of which the element of self-government might be largely infused. He has hoped that, in this way, the whole subject may come to be better understood, both by the officers of Government and by the people, and that the Government may be enabled gradually to introduce the privileges and the advantages of representative and elective institutions.'

"My Lord, it is not my intention to oppose the present motion. I shall have gained my object if I succeed in obtaining from my hon'ble friend, Mr. Hobhouse, or some other member of the Executive Government, an assurance that these piecemeal and incomplete measures now before the Council are of a temporary character, and that they will hereafter be replaced by enactments of a wider character, which shall contain a full exposition of the fixed views and policy of the Government of India."

His Honour THE LIEUTENANT-GOVERNOR said his hon'ble friend, Mr. Chapman, had been good enough to read to the Council with approbation an extract regarding his municipal administration of the Central Provinces. Having, in common with the hon'ble Mr. Egerton and a distinguished man sitting opposite (Sir R. Temple), served in the Central Provinces, he also felt gratified by the statement made by the hon'ble member in charge of the Bill that, in the opinion of the Government, the municipal system of the Central Provinces had worked satisfactorily. He was very much inclined to agree with his friend, Mr. Chapman, that it would be better that the powers of the Government in this matter should be more accurately defined. The powers conferred by these Bills were of the widest possible character. In fact, the Government might impose what taxes they liked, and might spend the money as they liked; and, in regard to the law of nuisances, they might declare any acts or omissions to be nuisances, and provide what punishments they liked for the commission of those nuisances. The powers given by these Bills were therefore certainly of the very widest possible character. In case the municipal administration of the Central Provinces might be discussed, he had provided himself with certain papers which would confirm what had been said by the hon'ble member in charge of the Bill, that the power of municipal government, great and almost unlimited as it was, had been administered with moderation by the Government of the Central Provinces. Perhaps the Council would pardon him if he took the liberty of reading a passage or two from a circular issued by the Local Government at a time when municipal administration was reviewed and systematized

in the province a few years ago. The circular from which he would read contained those passages :—

“ Now that the octroi-system of taxation has been fully tried, the Chief Commissioner desires that the wishes of the people shall be entirely consulted regarding the form of taxation they would prefer for the future, and that as much attention as possible should be paid to their wishes with respect to the amount of municipal taxation. .

“ The question should not be, how much can be raised, but how much it is really necessary to raise for specified objects, and how that can best be raised.

“ All municipal income will be strictly devoted to and spent by municipalities from which it is raised.

“ As far as possible the people should be consulted for what objects they choose to be taxed and to what extent.

“ The rates are nowhere to be raised.

“ They are to be reduced in all cases, and as regards all articles which are affected by the following rules :—

[Here follow certain prescribed maxima of taxation.]

“ It being then borne in mind that no increase is to be made, but that decrease must be made where these instructions render it necessary and may be made by consent, I am to direct that, if the local officers and the people (poor as well as rich) are agreed about the matter, then arrangements for the ensuing year may be made at once at the rates agreed on. .

“ If there is a wish to substitute some other form of taxation for octroi, or there be difference of opinion regarding the amount, rates and the like, Deputy Commissioners will make the best temporary arrangements they can on the existing system, and will refer through you for the orders of Chief Commissioner.”

And a subsequent circular went on to provide for the trial, experimentally, of the system of election. He would not trouble the Council with much upon that subject, but would read only one or two brief passages :—

“ It will not be necessary to record the votes of those who do not choose to attend and vote, but the district officers are requested to use their influence to induce the people to take an interest in the matter, and to give their votes. It should be an object to ensure that all classes may be fairly represented, and especially that the labouring classes, who cannot easily make themselves heard, may have those who will speak for them and take care of their interests.

“ It is not to be expected that the interest felt in these elections will be great at first, but the Chief Commissioner believes that, if the people find that their representatives have a real voice in their taxation and municipal management, an interest will spring up, and substantial self-government may be gradually introduced. Wherever the Committees have not been duly

and properly elected under rules previously promulgated, elections will now be held under these instructions. Where they have been already so elected, they will, of course, hold office for the term for which they were elected."

He trusted his hon'ble friend would be satisfied that, although the power given to the Local Government under this Bill was enormous, the Chief Commissioner of the Central Provinces did what he could to regulate that power, and, in fact, to a certain extent, did what his hon'ble friend would have the Council do by law. He laid down maxima of taxation by certain rules within which the local officers and the Municipal Committees were obliged to act. So far, then, His Honour hoped the Council would see that those who administered the government of the Central Provinces had done what they could to keep the law within due bounds. But at the same time he admitted that the law was enormously wide, and he must express his concurrence in the general principles laid down by his hon'ble friend, when he said he desired that the law should define the powers of the Government more precisely; that the law should limit the power and quantity of taxation, and, to a certain extent, also lay down certain general leading rules beyond which municipalities should not be permitted to go, and within which minor details might be filled according to the needs of each district and each locality. So far as this Bill was, to a moderate degree, a modification of the previous law, inasmuch as it introduced certain very moderate moral checks, he thought it was an improvement on the previous law. He thought it was right that the intention to introduce municipal institutions and municipal taxation should be published, so that an opportunity might be given to the townspeople to say their say on the subject. It was also right to give power to the Government of India to restrain the Local Governments in the matter of taxation, by laying down rules by which municipal taxation should be regulated. At the same time he would say that the Government of India; as well as the Local Government, was human, and that it might be desirable to regulate by law the powers of the Government of India as well as those of the Local Governments. No doubt individual discretion depended on the character of those who exercised it. But if the principle was right that these powers should be regulated by law, it was not enough that you should give the Supreme Executive Government the power of limiting taxation by rules; it was proper in that case that that power should be more accurately defined by law.

He should like also to say one word in confirmation of what fell from his hon'ble friend as to the necessity of regulating the conduct of fairs and assemblies. We were to a certain extent placed in difficulties in this matter, because an old regulation on that subject had been abolished for reasons not

known to him, and we found that, at places where great collections of people took place, the zamíndárs were in the habit of collecting certain dues and deriving revenue from these fairs without bearing the expense. And it had fallen on the Government, without any special fund for the purpose, to make arrangements for the necessary sanitary arrangements and medical and magisterial regulations. He thought it most important and necessary that some provision should be made on that subject.

The Hon'ble MR. BAYLEY said the hon'ble Mr. Chapman had challenged an expression from the Government of India as to their views and their policy generally in regard to municipalities. He had no authority, nor did he pretend to lay down any such policy on behalf of the Government of India. But he wished to give, in a very few words, the results, or some of the results, of his own experience; for he could say conscientiously that, for many years as an executive officer, this particular subject was the very one in which he had been above all others particularly interested. The hon'ble member had, as he (MR. BAYLEY) understood him, been complaining, in the first place, that there were four Bills about to be introduced, all on the same model, and enunciating the same policy. Having said that, he, in the same breath, proceeded to attack the Government for having no policy at all, and demanded that they should lay down some model which all such Bills should follow. But when he came to explain himself, his meaning seemed to be that he did not like the policy which these particular Bills expounded, and that he would have a policy of his own, which he would wish the Government of India to adopt. It was not MR. BAYLEY's business to say what he thought such a policy should be, and it was a subject which required, perhaps, a good deal more consideration than in a hasty debate of this kind it was quite possible to give it. But this he thought he might say, that if the restrictions which the hon'ble member himself had shadowed out were imposed, they would make the practical working of any system of municipality in India absolutely impossible. As MR. BAYLEY understood the hon'ble member, he objected very much to any provision of law which compelled the Government to obtain applications from the inhabitants of any place at which a municipality was proposed to be established. He told the Council that such applications were a sham. But still he thought it desirable that the feelings of the people should be ascertained. Well, MR. BAYLEY could say that he had had some experience in three provinces of India,—in the Panjáb, in the North-Western Provinces and in Oudh; and he could positively affirm that the Government did, in every case, carefully consider, not only the wishes of the people, but the policy of establishing each intended municipality and of the particular constitu-

tion which it was intended to give to it. He understood that the hon'ble member would propose further restrictions on the size of municipalities—restrictions as to the class of municipalities. He would make one class of municipalities of large cities, confined solely to elective institutions, and another class of small towns, with official institutions, if MR. BAYLEY might so call them. He would place a limit on the incidence of particular taxes, and he would forbid the imposition of any but particular taxes. Now, MR. BAYLEY could say distinctly that, with regard to the size of towns, he could mention many small towns—places which you could hardly dignify with the name of towns—which had enjoyed elective institutions and worked them with great credit and very much to the satisfaction of the people. And he could mention others, large and wealthy towns, in which it had been impossible to obtain any machinery for elective bodies. While, therefore, on the one hand, the Government probably would give to large municipalities elective institutions, and would on the other hand, at any rate in the first instance, give official bodies to small towns, yet he did not see why the Government should in the least be restricted to giving one class of institutions to any particular class of towns, or why they should not be left to judge as to the propriety of giving to any town any institution for which it was properly prepared.

Then, as to taxation, it was a broad question of policy, on which there might very well be two opinions. But he confessed he feared that, if Government laid down eighteen or twenty different sorts of taxes and said that they might be imposed, the belief of every householder in the municipalities would be that he was liable to pay every one of them; that it would cause a great deal more irritation and alarm if the Council expressed the taxes in the Bill, than if it gave a general power to the Local Government, under the check and control of the Imperial Government, of imposing taxation. Besides, there were already existing, and had been, modes of raising funds in many of these municipalities—modes which had prevailed from times far anterior to our Government, the whole of which, or even most of which, it would be almost a hopeless task to define in any law. He knew that, in the early days of the administration in the Panjáb, on the occasion of introducing the *Chaukidári* tax of the North-Western Provinces, the people without any exception, from one end of the Panjáb to the other, came to the local officers and said—“we have special modes of raising funds which we are quite willing to devote to this object, but we don't like this new tax.” MR. BAYLEY was then a district officer, and he went into every town in which *chaukidárs* were enrolled and consulted the people, and adopted the particular mode of raising funds which they indicated was most suitable to them. He believed

that was the course which, under this Bill, would be adopted, and he was sure it was one which far better suited the wishes of the people and the varied circumstances of the country.

The hon'ble member's allusion to the octroi-duties was somewhat unfortunate, because the attempt had actually been made to lay down rigid rules on the subject. It was impossible, *a priori*, to object to the course adopted, for the rules laid down were based on the soundest principles of political economy, and yet every one of the Local Governments without exception remonstrated, and said that it was impossible to work the system of octroi-duties, unless a relaxation of those rules was permitted. That order having been made by the Executive Government, they had the power to alter and modify it; but if such hard and fast restrictions were imposed by law, the Government would be perpetually under the necessity of applying to this Council to modify it.

[The Hon'ble MR. CHAPMAN observed that he had only said that the amount of taxation should be limited by law, not the mode of raising the tax.]

The Hon'ble MR. BAYLEY resumed—In regard even to the amount, he thought that restrictions should not be provided by law. He would take the city of Amritsar as an example. There, a certain amount of octroi-duties was levied: it was very large and was satisfactorily expended by the people themselves for the improvement of their own town; it was applied to purposes of conservancy; to lighting; the maintenance of schools; the furtherance of education, and to many other purposes, which rendered that town, though one of our most recent possessions, one of the best and most contended towns in Upper India. And that was done, not only with the consent, but with the cordial co-operation, of the people of the town.

Then, again, as regards the power of making rules. He did not quite understand what his hon'ble friend meant as to the power of the municipality to enforce rules. MR. BAYLEY understood him to object to the power of the municipality to make rules defining nuisances. But as regards the enforcement of the rules, MR. BAYLEY might observe that it had been the practice of the Government of India not to allow the enforcement of any such rules in any municipality, unless it was situated within easy reach of some magisterial officer to whom the adjudication of offences against the rules could be safely confided. As to the power of making rules, he might say that it would be almost impossible to lay down ready-made rules that would be suitable for all places. Take the instance of British Burma, which

the hon'ble member have himself quoted. One of the greatest nuisances in the towns in British Burma was the throwing of rice-husks into the river. Who on earth would have thought of putting such a matter into an imperial Bill. All he could say was, that he felt sure from his own experience, and from all he had seen and read, that the wisest policy was to pass Bills jealously guarding the liberty of local taxation, but leaving the consideration of details to those best acquainted with the circumstances of the towns in which such taxation was about to be imposed. He was quite sure that that system had worked well, and if his hon'ble friend's experience was the other way, all MR. BAYLEY could say was that his friend had been especially unfortunate. His Honour the Lieutenant-Governor could vouch for the Central Provinces and for Bengal: MR. BAYLEY certainly could vouch (and he believed other hon'ble members would agree with him) for three other provinces; and if the case of Bombay had been different, all he could say was that it was exceptional.

His hon'ble friend's remarks regarding fairs and religious gatherings had, MR. BAYLEY thought, nothing to do with this Bill. He believed that, in one or two large towns in Bombay, fairs were held. But in other parts of India, they were held sometimes in wastes far from any town whatever. He knew with regard to several fairs that there was not a town within ten miles of them, and to bring matters relating to these fairs within any municipal Bill was a proposition which could not for a moment be entertained. Not many years ago, during Lord Lawrence's administration, the subject was taken up and considered very carefully, and after communication with all the Local Governments, it was found to be attended with so many difficulties that the subject was dropped. There was no reason, why, if found necessary, the matter should not be separately re-considered. But it was a most difficult subject, regarding which he saw no need for uniform legislation, or for declaring any general line of policy, and he thought it certainly should not form part of any Municipal Bill.

Major General the Hon'ble H. W. NORMAN observed that, having so recently supported the passing of the Panjáb Municipal Act, with which this Bill was identical, and being informed on the best possible authority that that Act was as applicable to the Central Provinces as it was to the Panjáb, he could have no objection to the passing of this Bill. But he agreed with His Honour the Lieutenant-Governor that it would be desirable that a limit should be fixed by law as to the amount and incidence of municipal taxation generally throughout the country.

The Hon'ble MR. ELLIS said that, when his hon'ble friend, Mr. Chapman, commenced his speech, he was afraid Mr. Chapman was about to appear as the champion of centralization, and advocate the passing of one uniform municipal law for all parts of the country. But MR. ELLIS was much relieved to find that his hon'ble friend did not go to that extent. What the hon'ble member said was that it was necessary to lay down, in one Bill affecting municipalities, some broad general principles of universal application, and he imputed blame to the Government for not having placed before the Council a more perfect measure laying down such principles. He (MR. ELLIS) would answer that, substantially and practically, we had laid down certain principles in the Bills which had been passed by, or were now before, this Council. Mr. Chapman mentioned six broad principles which he considered ought to be formulated by the Council of the Viceroy. In the first place, he asked us to place some limit on the power of the Local Governments to establish municipalities with reference to the size and population of a town. Now, on this point MR. ELLIS must join issue with his hon'ble friend, and say that he thought it was not desirable that any such restrictions should be placed. He need only refer to Mr. Chapman's own special experience when Collector of Satara, and remind him that, in that particular district, a large number of small municipalities were formed by means of a very simple process, and had worked well; he would admit that the formation of small municipalities was expedient and advisable in that particular district, though as a general rule it would not be desirable to establish such municipalities. When that district was first brought under the British Government, there was found, in the small towns, a system of taxation on non-agriculturists, which would be abolished as a source of imperial revenue. The Commissioner of the district, Sir Bartle Frere, very wisely used the opportunity of retaining this tax, and making it the germ of a municipal fund. The consequence was that the people accustomed to the tax and feeling no burden, found themselves in the possession of a small fund to meet the demands of sanitation, water-supply and other municipal wants. Here was a case in which, if there had been a prohibition against the establishment of municipalities in towns of small size and small population, the work which was then accomplished could not have been carried out, and the formation of these municipalities, attended with no irritation and no discontent, would have been impossible.

The next point to which Mr. Chapman had referred was the necessity of distinctions in the constitution of municipalities. In this matter the Bills which the Council had passed, or were about to pass, did recognize distinctions. But the principle therein affirmed was that it should rest with the



Local Governments to determine what constitution was applicable to particular localities. The Council had passed the Panjáb Municipalities Act, which was to be extended by the Bill under discussion, in a form which would admit of the election or nomination of municipal committees according to the discretion of the Local Government. He thought the Council had fully recognised the principle that there were to be different classes of municipalities, but had at the same time decided that the determination of the question under which class a particular municipality should be brought was better left to the discretion of the Executive Government.

Then, there was another point, namely, the question of taxation, on which his hon'ble friend would lay down a broad principle. He admitted the great variety of circumstances in different districts, and in different towns in the same district, and yet he would impose restrictions on the Executive Government. MR. ELLIS would remind his hon'ble friend that an unlimited power of taxation was not given by this or any other Bill passed by the Council. First, there was the very substantial restriction that the particular form of taxation must be agreed to by the municipal bodies themselves; and MR. ELLIS thought that, as they were composed of the people who were to pay the taxes, they were good judges of the form of taxation to be imposed. Secondly, before the Local Government could carry out a scheme of taxation, the form of taxation must be approved by the Government of India. His hon'ble friend asked why different systems were followed in the case of the land-revenue and in the case of municipalities. MR. ELLIS maintained that there was no difference in the two cases. In the Bill relating to the assessment of revenue in the North-Western Provinces, it was laid down that the mode of assessment should be subject to the general principles laid down by the Government of India, while the determination of the assessment itself was left to the Local Government; so that the system followed was precisely the same as regarded municipal taxation and land-revenue assessment.

Another broad principle which his hon'ble friend contended should be laid down by law was as to the publication of accounts. MR. ELLIS need hardly say that he cordially concurred. But he contended that that principle was fully provided for already; he need only refer to the Government Gazettes, which, in Bombay at any rate, were every now and then full of detailed accounts of petty municipalities published to the world at large by the Local Governments.

The fifth point as to municipal administration to which his hon'ble friend referred was as to the determination of nuisances. Mr. Chapman

considered it undesirable that this should be left to the Executive Government. But Mr. ELLIS contended that municipal administration in respect of nuisances was the very point which the Executive Government concerned could best regulate, and the Bills passed by this Council proposed that the determination of nuisances should be left to rules to be framed by the Local Government. The circumstances of various towns in the same province were so varied, that an act which might be a nuisance in one place would not necessarily be a nuisance in another: and it was much better that these matters should be provided for by rules having the force of law, defining strictly the responsibility of the Executive, than to lay down by law rules of administration. There had been no difference, as far as he knew, in respect to the practice in this respect in the Bills before this Council. The only difference that he had heard of was in an embryo Bill for Bombay, which devoted some forty-eight sections to the subject of nuisances. He did not wish to question the propriety of thus dealing with nuisances in the municipalities in Bombay, if it seemed necessary to the Local Government to do so. But he did say that the course which this Council was adopting was a wiser one; he preferred that these matters should be left to be dealt with by rules to be framed by the Executive Government, and that was the principle affirmed in the Bill before the Council.

The sixth and last broad principle which Mr. Chapman would wish the Council to lay down was to fix the amount to be expended by municipalities on certain definite objects of municipal expenditure. In the Panjáb Bill, it was laid down generally that municipal expenditure should be confined to certain objects, but the proportion of expenditure for different branches of municipal administration was not fixed. Mr. ELLIS thought the Council was wise in doing this. He quite concurred with his hon'ble friend in thinking that water-supply was one of the first objects on which municipal funds should be expended. Still, there were so many towns in which water-supply was not a first object, and in which other matters were more important, that it would be very unwise to lay down that a certain proportion of the funds, or a certain amount annually, should be devoted to the supply of water. Therefore he thought the principle laid down that municipal expenditure should be restricted to certain objects, without fixing any proportion for particular objects, was the right principle.

He believed he had now gone through every one of the points on which his hon'ble friend desired to lay down broad principles, and he thought that what had been done was amply sufficient to meet the wants of the case.

We had laid down certain leading principles, which might or might not be the principles which Mr. Chapman approved; but Mr. ELLIS thought that those principles were sufficiently well defined, and wherever we had left the details to the Executive Government, we had, he considered, done wisely. There was great mischief in entering too many details in a law: on the other hand there was great advantage in leaving to the Executive matters of details which could easily be corrected if not found to work well: whereas, if those details were fixed by law, it would require a great deal of time before the law could be altered. He would, in conclusion, refer to the Bill which his hon'ble friend held in his hand, and which was about to be introduced into the Bombay Council. MR. ELLIS would warn his hon'ble friend to guard against carrying too far the principle which he advocated; he would warn him to guard against introducing into a project of law a great many details of administration, which were better left to the discretion of the Executive Government.

The Hon'ble SIR RICHARD TEMPLE had very little to say in the matter, having troubled the Council at some length on this same topic, in reference to the Bill recently passed for municipalities in the Panjáb. But perhaps he might remark generally, in reference to the speech of the hon'ble Mr. Chapman, that probably nobody sitting round this table here differed greatly from the general tenor of his remarks upon the various points to which the hon'ble member had referred. The only point on which we were at issue was, how far it was possible or expedient to put these definitions into positive law. If the hon'ble member asked why, if these provisions were desirable, they were not imported into law, SIR RICHARD TEMPLE answered, because we, sitting here as a Legislative Council, had not the knowledge nor the experience to enable us to do so. If we were asked why we did not do it, we would answer, because we found that we could not. If the Council would bear in mind the various matters to which the hon'ble member alluded as fit and proper to be imported into the law, and that he wanted a general indication of the views of the Government of India regarding the particular nature of the taxes to be imposed in reference to the tax-paying capabilities of the various towns and their general circumstances, and as to the size and classes of towns, such classification being made in reference to the advancement of intelligence and public opinion in those towns, and also as to the various kinds of property which were fit subjects of taxation, if the Council would reflect on the magnitude, variety, and uncertainty of all these facts, they would at once see the enormous difficulty of the task which the hon'ble member would impose on the Legislative Department. Great as was our confidence in the ability of our hon'ble

colleague in charge of the Legislative Department, and in the experience and acumen of our Secretary, he (SIR RICHARD TEMPLE) ventured to say that their powers would hardly be equal to such a difficult task. If we admitted that the Council did not of itself possess the requisite knowledge, we must rely on each Local Government to give us the information: we must rely on the rules which each Local Government must prepare. That being the case, it was better to say "we don't essay this task, but leave it to the Local Government." It was more satisfactory not to attempt to do what we could not. And if the Council could not rely on the Local Governments, it was better to say so at once. This view would be borne out by what had fallen from Mr. Chapman in reference to local taxation. He said that it was impossible to say what taxes were suitable to particular provinces, and that we should therefore annex a schedule of every kind of taxation which might be imposed in municipalities. The hon'ble Mr. Bayley had very properly pointed out the formidable aspect which such a schedule would bear in the eyes of our Native fellow-subjects. If we legislated we should have to promulgate such a schedule, and leave each Local Government to select, from amongst the taxes laid down in the schedule, the particular tax or taxes applicable to particular localities; instead of doing which, it appeared to SIR RICHARD TEMPLE better to say that the mode of taxation should be left to the discretion of the Local Government. It was simply a question of possibility. Under Mr. Chapman's scheme, we would be pretending to do what we knew we could not do. SIR RICHARD TEMPLE thought he need only add that in reference to the Government of India indicating its views and policy regarding municipal taxation generally, perhaps the hon'ble member hardly recollected that the Government of India had done that in a memorable resolution issued in the summer of the year 1868. That resolution was very carefully considered by the Governor General of India in Council. Almost every member of the executive Council had had a share in the elaboration of those rules, and if an elaborate indication of the views and policy of the Government of India was required, it was to be found in that resolution, to which he must refer the hon'ble member.

With reference to the audit of municipal accounts, he had to remind the Council that the accounts of the principal municipalities in India were subject to complete audit at the head-quarters of the Financial Department. That audit was as efficient as it could be made, and it could not be made more efficient by any legal enactment. Then, as regards the provincial funds, special provision was made in the resolution of December 1870, establishing the provincial services, that the accounts were to be submitted to the same audit as in the

Public Works Department, and due effect had been given to that resolution, And, as regards the remaining local funds, he might remind the Council that those local accounts were subjected to precisely the same audit to which all other civil expenditure was subject; and as the system of accounts was established on a special report made by the Commissioners appointed from England, we might be entitled to presume that the system was as good as modern experience could make it. He failed to perceive that anything more could be supplied by legislative enactment. With these remarks he would support the Bill.

The Hon'ble MR. HOBHOUSE said, as his hon'ble friend, Mr. Chapman, had thought fit not to oppose the motion, he did not feel it necessary to say more than a few words in reply, and for this reason, that his knowledge of India was so slight that, when he got out of the hard and somewhat narrow ground of fact on which he presented the case to the Council, he felt himself at a great disadvantage in discussing the subject. Therefore he would only remind the Council that we were not discussing the matter generally, but were proceeding on the ground that there was something existing in the Central Provinces, which something we were continuing in that modified form which approved itself to this Council on the occasion of passing the Panjáb Act.

His Excellency THE PRESIDENT said: "This discussion is so entirely a revival of that which was raised by the hon'ble member (Mr. Chapman) when the Panjáb Municipalities Bill was under the consideration of the Council, that I do not feel it necessary to repeat, now, the observations I then made on the views of the hon'ble member.

"The discussion which has taken place to-day will, I think, be useful, as showing the hon'ble member and the Council that, however desirable it may appear to be to lay down what are termed broad and comprehensive principles upon a subject of this kind, the difficulty of doing so, and of grappling, in a general law, with any single one of the many points raised by the hon'ble Mr. Chapman, is very great. The hon'ble member will see, in the first place, that to lay down for all India any hard-and-fast line, for the purpose of determining whether a town shall or shall not be formed into a municipality, would be exceedingly difficult; he will see that it would also be exceedingly difficult to decide, by any general rule based upon population, that one town shall have a system of self-government, and another, perhaps a few hundred below the standard of population, shall be debarred from the same privilege; he will see, again, from what has passed to-day, that it would be inadvisable,

even if it were possible, to include in the schedule of any Bill all the different forms of taxation which, for municipal purposes, it may be found desirable to levy in all parts of India; he will see, on consideration of the clauses in the draft Bill for the Presidency of Bombay to which he has referred to-day, that it would be difficult, if not altogether impossible, to embody in any general measure those minute sanitary and police regulations which it may be necessary to apply to towns differing in almost every respect in which it is possible that one town can differ from another; he will see, not only how difficult it would be to do all this, but also that, if the difficulties could be surmounted and all possible taxes were to be enumerated, all sanitary and police regulations were to be embodied, and a maximum of municipal taxation were to be laid down in one general Act, the tendency of such legislation would be contrary to the policy which he himself is really anxious to carry out. The probable effect of including minute sanitary and police regulations in a general law would be to import into towns which were not fit for them complicated sanitary regulations, and to lay down a maximum of taxation which would be applicable to all towns, and include, for example, Calcutta and Bombay, would be of little or no use for the purpose of restricting the rate of municipal taxation, and might even have an opposite effect, for the law might be interpreted as a direction to impose the maximum rate.

“For these reasons, we have decided, in dealing with the questions as to the alteration of the municipal laws in different parts of India which have been brought before the Council this year, not to introduce any general scheme for municipal taxation. These reasons have been supported by the evidence which we have received that the municipal law which we have continued for the Panjáb, and propose to continue for the Central Provinces, has hitherto worked well. We have heard from my hon’ble friend (Mr. Egerton), who has filled a high office in the Panjáb for many years; also from His Honour the Lieutenant-Governor of Bengal, and from my hon’ble friend on the right (Sir R. Temple), who have been charged with the administration of the Central Provinces, that this form of legislation has answered in the Panjáb and in the Central Provinces; and when I recollect that my hon’ble friend opposite (Mr. Chapman) comes from a presidency where this elastic law is not in operation, but where the municipal law is more precise, I cannot but, as a matter of evidence, prefer the testimony of those who speak from personal experience.

“I have been led to make these remarks in order to show the hon’ble member that the Government have carefully considered this question, and

that they have felt the wiser course to be to accept what has been proved to be successful, and not to overweight the statute-book with laws of minute detail, which, in practice, might be found inconvenient and possibly dangerous.

“I would only say one word more. A remark fell from my hon’ble friend in regard to the ultimate success of representative committees for municipal purposes. I have had some opportunities of ascertaining what the present state of representative municipal government is in different parts of India, and I am happy to say that I have had satisfactory evidence that, in some parts of India at any rate, representative municipal institutions have worked well. The realization of the full advantages of these institutions must, of course, be a matter of time, and will require the education of more than one generation; but in Sindh, the Panjáb and the Central Provinces, I was assured that the representative municipal committees have acted with independence and managed their own affairs well and satisfactorily.

“I wish therefore to say that, as far as my knowledge enables me to speak, I believe municipal representative institutions have already worked well in many parts of India, and I am convinced that the introduction of representation in the management of local affairs will ultimately prove a great security to the Government, and an advantage to the people of this country.”

The Motion was put and agreed to.

The Hon’ble MR. HOBHOUSE then moved that the Bill, together with the Statement of Objects and Reasons, be published in English and in Urdu in the *Central Provinces Gazette*.

His Honour THE LIEUTENANT-GOVERNOR said that, on the last occasion on which the hon’ble member in charge of the Legislative Department had made a motion of that sort, he had asked whether any hon’ble member demanded any explanation on the subject in so defiant a tone that, remembering the hon’ble member’s fierce and unbridled oratory that preceded that motion, HIS HONOUR felt too much terrorised to ask for any explanation. But if he dared he would now ask why a motion of this kind should be laid before the Council when they were never accustomed to such motions before. His impression was that the publication of Bills was an executive act within the competency of His Excellency the President.

His Excellency THE PRESIDENT said that the motion was necessitated by a new Rule which provided that—

“when any motion mentioned in Rule 18 is carried, the Bill shall, together with a Statement of its Objects and Reasons, be published in English in the *Gazette of India*.

"The Bill and Statement shall also be published in such official Gazettes and in such Vernacular languages (if any), as the Council in each case decides to be necessary for the purpose of giving notice to the communities affected by the Bill."

"For this purpose, the Council shall make an order at the Meeting at which such motion is carried, and may, from time to time, on the motion of any member, vary or cancel such order."

His Honour THE LIEUTENANT-GOVERNOR proceeded. He stood corrected on that point. He had not given notice of motion, but he might say that it seemed to him extremely strange that, if the Bill was published in any Oriental language at all, it should be published only in a language which not one in ten thousand of the inhabitants of the Central Provinces understood. He would move that, instead of the word "Urdu," should be inserted the words "Hindi and Maharathi."

The Hon'ble MR. HOBHOUSE said it had just been suggested to him that it would be proper to publish the Bill in Hindi, and he would ask leave to amend his motion accordingly.

His Honour THE LIEUTENANT-GOVERNOR resumed. Another matter which he wished to notice was that, under the terms of the motion, the Bill was to be published. But what was the Bill? The Bill was nothing more than a Bill introducing into the Central Provinces the Panjáb Municipal Act. It was like publishing a "ditto." No one in the Central Provinces would know what the Bill actually was. Therefore, perhaps the hon'ble member would also accept another proposal, that after the word "Reasons" the words "and the Panjáb Municipal Act" be added.

The Hon'ble MR. HOBHOUSE intimated that he had no objection to the amendment.

The Motion that the Bill, together with the Statement of Objects and Reasons, and the Panjáb Municipal Act, 1873, be published in English, Mahrathi and Hindi in the *Central Provinces Gazette* was put and agreed to.

#### VILLAGE POLICE (NORTH-WESTERN PROVINCES) BILL.

The Hon'ble MR. INGLIS introduced the Bill to consolidate and amend the law relating to Village Police in the North-Western Provinces, and moved that it be referred to a Select Committee with instructions to report in a fortnight. He had explained when he had asked leave to introduce the Bill, that the only alteration proposed to be made in the existing law was to make all chaukidárs in the North-Western Provinces, whether appointed under Regulation XX



of 1817 or Act III of 1869, liable, on conviction before a Magistrate of misconduct or neglect of duty, to be punished by fine or imprisonment—a punishment which, at present, could be inflicted only on chaukidárs appointed under Act III of 1869. This was the only alteration of the law proposed. In all other matters the Bill re-enacted and consolidated the provisions of the two laws which it was proposed to repeal.

His Honour THE LIEUTENANT-GOVERNOR said, as far he saw, the Bill was a good Bill, and the only observation he would make would be in reference to a passage in the Statement of Objects and Reasons, which ran thus :

“Now that these men have been put on a regular footing, and receive fixed monthly salaries, it seems proper that they should, as regards their appointment, discipline, and general management, be subjected to rules similar to those adopted for village-watchmen paid under Act III of 1869, while such portions of the old law, Regulation XX of 1817, as defined correctly their present duties and responsibilities, should be re-enacted ”

He understood that, in the North-Western Provinces, the village police had been centralized; that there was not a Village Chaukidári Fund, but a District Police Fund: he was not sure whether there was not one General Provincial Fund. And the result was that these chaukidárs had been put on a regular footing and received their pay from the central fund, and the central authority exercised more direct control over them. He need not remind the hon'ble member that, on the subject of village-watchmen, there were two schools: one maintained that it was better not to have a regular police in the country villages; that you should rather maintain the old village institution of chaukidárs doing village services, and partially doing the work of the Government in reporting crime and catching thieves. His Honour himself belonged to that school. On the other hand, another school maintained that the village chaukidárs should be put on the same regular footing as the ordinary police. He would deprecate carrying out that system. He hoped the result of this Bill would not be that these men would be put entirely under the power of the central authority, but that they should be allowed, to a certain extent, to remain on the same footing as that on which they had previously worked.

The Hon'ble MR. BAYLEY stated that the sole alteration of the existing law which the Bill proposed was to give a power to punish chaukidárs for misconduct or neglect of duty. This power was formerly given by an old Regulation, and he was sure that His Honour the Lieutenant-Governor must himself have punished chaukidárs under that Regulation. It was only because that Regulation had been repealed that it was now necessary to re-enact it to the extent stated.

The Hon'ble MR. ELLIS entirely concurred with 'all that His Honour the Lieutenant-Governor had stated with reference to the two classes of village police. One class was the old village police, to be improved to the best of our ability; another class were appointed under the District Police Act. MR. ELLIS entirely concurred that we should do all we could to improve and maintain the old village police, and not attempt to do village police work by means of the district police. As the Bill first came up, it appeared to the Government of India to have in it provisions not in accordance with this view, and in consequence it was modified by the Government of the North-Western Provinces so as to confine it to the better organization and better control of the indigenous village police.

The Motion was put and agreed to.

The Hon'ble MR. INGLIS moved that the Bill, together with the Statement of Objects and Reasons, be published in English and in Urdu in the *North-Western Provinces Gazette*.

His Highness THE MAHARAJA OF VIZIANAGRAM, in giving his entire concurrence to the Bill, proposed that, as the North-Western Provinces bordered upon the Central Provinces of British India, a translation of the Bill in Hindí and Mahráthí should be published in the *North-Western Provinces Gazette*.

His Honour THE LIEUTENANT-GOVERNOR supported the proposal of His Highness as far as regarded publication in Hindí: but said that if a knowledge of the Bill was to be brought home to the people, it should be published in a language which was understood by the people. Not one in a thousand understood Urdu.

The Hon'ble MR. INGLIS observed that, as there were no Mahráthas in the North-Western Provinces, it would be useless to translate the Bill into that language, and that, as Urdú was in general use throughout those Provinces and understood by all educated persons who could read, it seemed to him unnecessary to have the Bill published in Hindí as well.

The Motion was agreed to with the insertion of the words "and Hindí" after "Urdú."

The following Select Committees were named:—

On the Bill to provide for the appointment of Municipal Committees in the Central Provinces—The Hon'ble Messrs. Chapman, Egerton and Inglis and the Mover.

On the Bill to consolidate and amend the law relating to Village Police in the North-Western Provinces—The Hon'ble Messrs. Hobhouse, Bayley and Egerton, His Highness the Mahārājā of Vizianagram and the Mover.

The Council then adjourned to Tuesday, the 18th March 1873.

CALCUTTA,  
*The 11th March 1873.* }

WHITLEY STOKES,  
*Secretary to the Government of India,  
Legislative Dept.*