

Wednesday,
30th May, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXII

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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

1883

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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 under the provisions of the Act of Parliament 24 & 25 Vic., cap 67.

The Council met at Government House, Simla, on Wednesday, the 30th May
1883

P R E S E N T :

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

His Honour the Lieutenant-Governor of the Panjáb, K.C.S.I., C.I.E.

His Excellency the Commander-in-Chief, G.C.B., C.I.E.

Major the Hon'ble E. Baring, B.A., C.S.I., C.I.E.

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.

The Hon'ble T. C. Hope, C.S.I., C.I.E.

The Hon'ble W. W. Hunter, LL.D., C.I.E.

The Hon'ble J. W. Quinton.

The Hon'ble D. G. Barkley.

NEW MEMBER.

The Hon'ble D. G. BARKLEY took his seat as an Additional Member.

PANJAB LOCAL SELF-GOVERNMENT BILL.

The Hon'ble Mr. BARKLEY moved for leave to introduce a Bill to make better provision for Local Self-government in the Panjáb. He said :—

“ My LORD, this Bill is one of a series of measures for the development of local self-government, the first suggestion of which is to be found in the Resolution of the Financial Department, No. 3353, dated 30th September, 1881, on the subject of the further decentralization of finance.

“ One of these, relating to the Central Provinces, has already become law, and others, relating to the North-Western Provinces, are now under the consideration of this Council. The present Bill is intended to provide for the better constitution of district committees and for the establishment of local boards in the Panjáb. The subject of municipalities and municipal taxation is reserved for separate treatment.

“ It may be well to premise that this Bill is not the first attempt to associate the people of the Panjáb, outside of municipal towns, in the management of their

own affairs. Before 1871 each district had its road and ferry fund committee, but these committees consisted entirely of officials, European and Native, and had in most cases very limited funds at their disposal. In 1871, financial reasons made it necessary for the Supreme Government, while partially decentralizing finance, to make assignments to Local Governments, falling short of the estimated expenditure of the departments, the charges of which were transferred to them; and one of the consequences of this was the withdrawal of the ferry fund income from local committees, while certain charges previously borne provincially were transferred to them. Further taxation for local purposes thus became necessary, and this was provided for by the Panjáb Local Rates Act, No. XX of 1871, which authorized the imposition of a local rate not exceeding six pies in the rupee of the annual value of land in the Panjáb, the annual value being, for the purposes of the Act, assumed to be double the land-revenue. The tax thus authorized, therefore, fell at the rate of one anna in the rupee, or $6\frac{1}{4}$ per cent. on the land-revenue; and this was in addition to cesses already imposed in connection with the settlement of the land-revenue to provide for roads, schools and district-post, which usually amounted to $2\frac{1}{2}$ per cent. more. To control the funds so raised, the Act enabled the Lieutenant-Governor to appoint committees in each district, and this power was exercised by appointing committees, consisting both of official and non-official members, the former being generally appointed *ex-officio*, by the name of their office, and the latter by nomination, for a term of two years at a time. In this way a considerable number of the more intelligent and influential inhabitants of districts have, for the last twelve years, been associated with the leading officials in the expenditure of the district funds, and have learnt to take some part in devising and carrying out measures for the general welfare. In some districts more progress has been made in this direction than in others, and indeed in some districts the poverty of the district funds or other local circumstances did not admit of much being done.

“This Bill must, therefore, be regarded, not as the first step towards the introduction of local self-government in the Panjáb, but as intended to facilitate further progress in a direction in which we have for some time been moving. It has been framed to give effect to the proposals for the extension of local self-government explained in the Resolution of the Panjáb Government, No. 1777, dated 7th September, 1882, by conferring upon district committees greater administrative and financial independence, by constituting local boards for areas smaller than districts, by improving the methods of appointing members of local bodies, and by providing for the transfer of additional services to local management and control.

“The Panjáb Local Rates Act, No. V. of 1878, by which the corresponding Act of 1871 was repealed, increased the amount of the local rate from six pies to

eight pies per rupee of annual value, the additional two pies, being one-fourth of the rate, being credited to the Local Government for the purpose of providing additional funds to be expended for the prevention or relief of famine, while the remaining three-fourths were left to be expended by district committees for the benefit of the district in which the rate was levied. In addition to the funds thus supplied, other cesses, known as road, school and district-post cesses, are levied by a percentage on the land-revenue, under authority of arrangements made at the time of the settlement of the land-revenue in each district. The road and school cesses are usually levied at the rate of one per cent. each upon the land-revenue, and the district-post cess at the rate of $\frac{1}{4}$ per cent. ; but in several districts, and in parts in some other districts, the last of these cesses is not levied at all. The proceeds of the road and school cesses, in addition to three-fourths of the local rate, have hitherto been at the disposal of district committees.

“ It has been considered advisable to amalgamate these cesses with the local rate, and to substitute the authority of the legislature for the settlement-arrangements under which they have hitherto been collected. It is, therefore, proposed to repeal Act V of 1878 so far as it affects all districts or portions of districts for which committees or boards may be constituted under the proposed Act ; and the opportunity has also been taken to provide legal authority for the local rate now levied on the rates imposed under various names in respect of the improvement of land due to canal irrigation, when such improvement has been excluded from account in assessing the land-revenue. Amongst these rates are the owner's rate under the Northern India Canals Acts, the water-advantage rate on the Bari Doab canal, and the proportion of the fluctuating revenue on lands irrigated from canals in the Montgomery district which is credited to canal-revenues. This has been done by amending the definition of annual value in section 2, and a definition of land-revenue has also been added to that section to authorize the levy of the local rate on the dues paid for grazing on Government lands which yield no land-revenue in any other form. These dues form a large item in the revenue realized from some of the districts of the Southern Panjáb, and the amount of the local rate and cesses has hitherto been deducted before the income was credited to Government. The provisions of the Bill now submitted are explained in some detail in the accompanying Statement of Objects and Reasons, and it will, therefore, probably be most convenient that I should not travel over the same ground, but should confine my remarks to some of the more prominent features of the Bill.

“ One of its most marked features is the extent to which, while laying down the general principles which should regulate the constitution and functions of district committees and local boards, it leaves details to be provided for by rules to be from time to time framed by the Local Government. This is rendered

necessary by the varying circumstances and requirements of different parts of the province. The constitution of society fundamentally differs in different localities. In some, as amongst the Bilúches of the Deraját frontier, tribal chiefs possess great authority. In others, as amongst the Patháns, while a tribal organization prevails, the tribes are greatly divided into factions at feud amongst themselves, but for certain purposes recognize the authority of tribal councils. In the greater part of the province, the agricultural classes are associated into village communities which have been compared to small republics ; but in the Southern Panjáb and the Hill Districts, the village is often an artificial aggregate of small hamlets or scattered wells, with no natural bond of union. Again, no uniform system which could be devised would be suited at the same time to peaceful and populous districts, in all parts of which some men are likely to be found sufficiently educated and intelligent to take an active interest in promoting public improvements, and to less favourably situated districts, where the population is scattered and sometimes turbulent, and where few such men are likely to be found away from the large towns. To give districts of the latter class such measure of self-government as they are capable of, without unduly fettering the committees and local boards of more advanced districts, considerable latitude must be left to the Local Government to frame such rules as may appear most suitable, having regard to local conditions and requirements. Most progress is likely to be achieved under a system sufficiently flexible to admit of being thus adapted to varying circumstances.

“ While we have long had district committees, the local boards proposed to be constituted by the Bill are new bodies, and the Bill provides that these boards should be ordinarily subordinate to the district committee in matters of finance and taxation, matters of common interests, and matters affecting the joint or conflicting interests of two or more boards in the district. In other respects, notifications, to be issued by the Local Government under section 11 will regulate the duties to be entrusted to the committee and the several boards, and the boards will not be under the control of the committee in respect of the matters thus specially made over to them. They may, however, be employed by the committee as its agents in the management of matters placed by such notification under the control of the committee (section 44). When, again, a first class board is considered fitted for greater financial independence, this may be conferred on it by a notification by the Local Government under clause (7) of section 37 ; and, while such a notification remains in force, the funds at the disposal of the board to which it relates will be treated as a separate district fund, to be accounted for, not to the district committee, but to Government (section 40).

“ To admit of the road, school and district-post cesses being amalgamated with the local rate, it has been found necessary to increase the maximum limit

of the local rate from eight pies to one anna per rupee (section 13). The local rate and cesses now amount in most districts to $10\frac{2}{3}$ pices per rupee on the assumed annual value, which is equivalent to $10\frac{5}{6}$ per cent. on the land-revenue. The proposed maximum rate equals $12\frac{1}{2}$ per cent. on the land-revenue which is $1\frac{2}{3}$ per cent. in excess of the total of the present local rate and cesses, but no general increase of local taxation is contemplated. One anna has been adopted as the maximum, partly for the sake of simplicity, and partly because in some districts, where the land-revenue is small and lightly assessed, it may be found advantageous to have the power somewhat to increase the rate in order to provide funds for purposes clearly for the benefit of the neighbourhood. In other places some reduction of the rate may be desirable, and section 14 enables committees specially empowered for the purpose, and, in the absence of such committees, the Local Government, either to increase or to reduce the rate, so long as it neither exceeds one anna per rupee of the annual value, nor falls below so many pies per rupee as the Local Government may from time to time direct.

“The result may be explained by the following example. A village assessed at Rs. 600 land-revenue at present pays Rs. 65 on account of local rate and cesses. If the local rate were increased to one anna per rupee of annual value, it would pay Rs. 75, while if it were reduced to ten pies per rupee, it would pay Rs. 62-8 or if it were reduced to eight pies per rupee, it would pay Rs. 50. Under section 26, again, four-fifths of the rate would be credited to the district committee, and the remaining one-fifth, for reasons, explained in the Statement of Objects and Reasons, to the Local Government. Leaving out of account charges for collection, the district committee would, in the case supposed, receive Rs. 52 at the present rate, Rs. 60 if the rate were increased to one anna per rupee, Rs. 50 if it were reduced to ten pies per rupee, and Rs. 40 if it were reduced to eight pies per rupee. The amount to be credited to the Local Government would similarly fluctuate as the rate was increased or diminished; and to this extent it would apparently be for the interest of the Local Government to keep the rates high. But that Government must apply the funds thus raised to similar purposes, though not necessarily in the same district, to those to which the district committee or local boards would be at liberty to apply them; and there would be no obstacle to its allotting the increased income due to the increase of the rate to the district which had found it necessary to increase its taxation. If the rate were decreased, the Local Government would simply have smaller funds available for expenditure in the province generally, or in particular districts, for the purposes contemplated by the Act, and it would be obliged to regulate its expenditure accordingly.

“The only other point which need be noted in connection with the subject of taxation is the new power, proposed to be given by section 18 to committees which have been empowered to determine the incidence of the local rate to impos-

other taxes, either for the purpose of supplementing the income from the local rate, or to enable the committee to reduce the local rate. It is thought that it may be desirable to have the power of taxing classes which at present bear no share of the local burdens, while they are largely benefited by improved communications and by expenditure from district funds for the support of educational and other institutions. But care has been taken to prevent taxation of an arbitrary, oppressive or injurious character, by providing that this power shall be exercised, subject to any general rules or special orders which the Governor General in Council may make on this behalf, and only by committees which have been entrusted with the power of determining the incidence of the local rate, for the proposals already specified, that the taxes imposed must be approved by the Local Government; and that the same procedure as to notice of the proposed tax, and disposal of any objections which may be preferred against it, shall be followed as is prescribed in the case of taxes imposed by municipalities.

“ It is necessary to state that none of these powers to impose increased taxation are intended to enable Government to devolve new charges upon local bodies. It is not desirable that the extension of local self-government should be associated a second time with increased taxation; and the danger of the fixed charges of committees and boards being from time to time increased without any corresponding increase of their resources, by their being called upon to undertake new services, has been guarded against by the proviso to section 11, which requires the Local Government, when the control of any new service is transferred to committees or boards, to provide them with such funds or sources of income as both the Local Government and the committee or board may consider sufficient to maintain such service in its existing state of efficiency. If increased taxation should be resorted to in any district, it will therefore be either for the purpose of reducing the burdens on land, or of enabling committees and boards to make better provision than before for objects of a local character already under their management.

“ Passing on to the subject of finance, it may be well to explain that the one-fifth of the rates and taxes to be credited to the Local Government under section 26 is intended to correspond as nearly as may be with the one-fourth of the local rate at present set apart for famine expenditure under Act V of 1878. As the local rate now falls at $8\frac{1}{2}$ per cent. on the land-revenue, the sum now set apart for this purpose is $2\frac{1}{2}$ per cent. If the new local rate should be assessed so as exactly to correspond with the present local rate and cesses, it would fall at $10\frac{5}{8}$ per cent. on the land-revenue, and the one-fifth deducted for Government would be $2\frac{1}{8}$ per cent. Taking the example already given, a village paying Rs. 600 as land-revenue, and Rs. 65 for local rate and cesses, pays Rs. 50 as local rate, of which Rs. 12-8 is set apart for famine-expenditure. The deduction of one-fifth of the new local rate would amount to Rs. 13. But

if the new local rate were reduced to 10 per cent., the Government share would be two per cent., and in that case such a village would pay Rs. 60, of which the Government share would be Rs. 12. If it were still further reduced owing to the substitution of other taxes under section 18, the Government share would diminish in the same proportion, but, under section 26, the Local Government would get a similar share in the new taxes, the proceeds of which had enabled the reduction to be made. It should be borne in mind that the proportion thus to be credited to the Local Government will correspond very closely with a tax at present raised, not for local purposes, but for the relief and prevention of famine throughout the country at large.

“Section 33, clause (d), has been inserted to give power to charge the district funds with their proportion of the cost of service rendered to local bodies by provincial establishments. A contribution of 20 per cent. from district funds is at present credited to provincial funds in payment for such services. But this arrangement has its disadvantages, and the Local Government has expressed a hope that, when the duties to be made over to committees and boards are determined, it will be found possible to surrender this contribution, as one of the steps which will have to be taken under section 11 to furnish committees and boards with the necessary funds. In the meantime, it is necessary to take power to charge these services to the local bodies.

“Financial control has been given to committees over boards in the same district, both because the committee is the most suitable body to consider the wants of all parts of the district, and to distribute the funds accordingly, and because to keep proper accounts in English in one central office in each district will be easier and less expensive, than it would be if each local board had to maintain a distinct establishment for the purpose. A portion of the establishment of the committee for other purposes, such as educational inspection and public works, must also be available for the service of the boards. The members of the committee will probably either be the same as the members of the boards in the district, or representatives chosen by them.

“It is, however, proposed that the boards shall have their own funds, consisting mainly of allotments made to them either by Government or by the district committee, and that balances of such funds unspent at the close of the financial year shall remain at their disposal (sections 30 and 31). They will thus be able to complete works for which funds have been allotted when it has been found impossible to work up to the allotment during the year.

“The only other subject which appears to require notice is the power of control over the proceedings of committees and boards which has been reserved to the Local Government and its officers. Sections 49 and 50 give the necessary powers of interference when the proceedings of committees or boards are not in

conformity with the Act or with the rules made under it; and the following sections provide for the prevention of acts likely to cause inconvenience to the public, and the execution of works, and the performance of acts necessary for the public safety or welfare, and for cases in which committees or boards have failed in their duty. Sections 55 to 57 provide for cases in which committees or boards have persistently failed to discharge their duties, or have exceeded or abused their powers, or in which other reasons affecting the public interests exist for superseding them. When a committee is superseded, it is provided that a new committee shall be provided by the Local Government as soon as conveniently may be, and, when a board is superseded, power is given to the Local Government, either to transfer its functions to the committee or other boards in the district, or to constitute a new board in its place. As local boards are now about to be constituted for the first time, it is desirable to have the power of re-adjusting the limits of their jurisdiction, should it not be found advisable to reconstitute a board for the same local area as that which was administered by a board which had neglected its duties or abused its authority. It is certain that committees and boards will require a good deal of guidance from district and divisional officers, especially until they become accustomed to the discharge of their new duties and thoroughly acquainted with the extent and limits of their powers. The sections relating to the subject of control have been framed with a view to the necessary guidance being supplied, as far as possible, from without; but should any committee at the outset require a degree of help from the district officer, which could not be given, without risk of undue friction and delay of business, in the form of external control and advice, there will be nothing to prevent the Local Government from appointing the Deputy Commissioner *ex-officio* chairman, under section 8, on the understanding that he should aim at preparing the committee by degrees to work without him.

“In conclusion, it should not be supposed that the organization of the new local bodies provided for by this Bill will give any immediate relief to district officers or their establishments. The working of these bodies will, for years to come, demand constant vigilance and attention from the district officer, whose duty it will be to assist them by his counsel and advice, to encourage them to an intelligent discharge of their duties, and to give such explanations as may be necessary to enable them to understand the extent and limits of their powers; and at the same time to guard against abuses or neglect of duty on their part, and in any case in which the intervention of superior authority may appear necessary, to report the circumstances with a view to obtain the necessary orders. He will also have to approve the annual estimates of expenditure, and, when he disapproves, to explain the nature of his objection; he may have to decide disputes between the different local bodies in his district;

and he will be the ordinary channel of communication between them and the Commissioner or other superior authorities."

The Motion was put and agreed to.

The Hon'ble MR. BARKLEY also introduced the Bill.

The Hon'ble MR. BARKLEY also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India*, and in the *Punjab Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

BOMBAY PORT-DUES REDUCTION BILL.

Major the Hon'ble E. BARING moved for leave to introduce a Bill to give power to reduce port-dues in the port of Bombay. He said that the Bill was of the simplest description, and he would only detain the Council a very short time in explaining its provisions. At present, port-dues were levied at the port of Bombay at the rate of two annas a ton, but the Chairman of the Bombay Port Trust had represented that the financial situation of the Trust was such as to allow of a reduction. Such a measure was exceedingly desirable and fully in harmony with the general policy of the Government which was to remove all obstacles to trade wherever it was possible to do so. There would be found in the Statement of Objects and Reasons a memorandum by the Chairman setting forth the actual financial position of the Trust, but it would not be necessary for him to refer to it in detail. The present proposal was to reduce the rate levied from two annas to $1\frac{1}{2}$ annas per ton, and the general result of this measure would be to relieve the shipping of Bombay to the extent of about half a lakh a year. The Bombay Government desired the reduction, but the law as it at present stood allowed of no lower rate than two annas a ton; hence the object of the proposal was to carry the wishes of the Port Trust and of the Bombay Government into effect, which could be done by removing the words "not less than two annas a ton" from Schedule I of the Indian Ports Act as it now stood.

The Motion was put and agreed to.

Major the Hon'ble E. BARING also introduced the Bill.

Major the Hon'ble E. BARING also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India*, and in the *Bombay Government Gazette* in English and in such other languages as the Local Government might think fit.

The Motion was put and agreed to.

CENTRAL PROVINCES TENANCY BILL.

The Hon'ble MR. ILBERT moved that the Bill to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces be referred back to the Select Committee. He said that his object in making this Motion was to give the Committee the opportunity of considering one or two suggestions which had been received since the presentation of the last Report. He did not anticipate, however, that the amendments which they would make would in any way alter the main provisions of the Bill or delay its passing into law.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 6th June 1883.

SIMLA ;
 The 1st June 1883. }

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.