

Wednesday,  
5th September, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

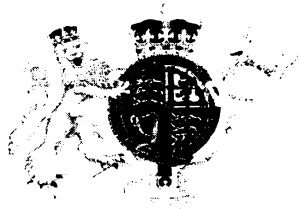
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**ABSTRACT OF THE PROCEEDINGS**  
**OF**  
**THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA**  
**ASSEMBLED FOR THE PURPOSE OF MAKING**  
**LAWS AND REGULATIONS**

**1883**

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

The Council met at Government House, Simla, on Wednesday, the 5th September, 1883.

PRESENT :

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 Panjab, K.C.S.I., C.I.E.

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

MÚLTÁN DISTRICT LAWS BILL.

The Hon'ble MR. ILBERT introduced the Bill to declare the law in force in certain lands which have been or hereafter may be ceded by the Bahawalpur State for occupation by the Indus Valley State Railway.

The Hon'ble MR. ILBERT also moved that the Bill be taken into consideration at the next meeting.

The Motion was put and agreed to.

N.-W. P. AND OUDH LOCAL BOARDS BILL.

The Hon'ble MR. QUINTON presented the report of the Select Committee on the Bill to provide for the constitution of Local Boards in the North-Western Provinces and Oudh.

N.-W. P. AND OUDH MUNICIPALITIES BILL.

The Hon'ble MR. QUINTON also presented the Report of the Select Committee on the Bill to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

## PANJÁB MUNICIPAL BILL.

The Hon'ble MR. BARKLEY moved for leave to introduce a Bill to make better provision for the Organization and Administration of Municipalities in the Panjáb. He said :—

“ My Lord, when the Panjáb Local Self-government Bill was introduced about three months ago, it was explained that the legislation which might be required with regard to municipalities had been reserved for separate consideration.

“ Some of the Panjáb municipalities may be said to have arrived at the age of majority, as they were originally established 21 years ago, and many more were formed before the passing of Act XV of 1867, which was the first Act of the Legislature passed with special reference to them. A few, such as Delhi and Simla, had been formed under the provisions of a General Act, XXVI of 1850, relating to improvements in towns; but the majority received no legal recognition before the passing of Act XV of 1867. That was a temporary Act, its duration having been originally limited to five years, and afterwards extended for one year more by an Act passed in 1872. Its place was taken in 1873 by Act IV of 1873, which contains the law now applicable to all municipalities in the Panjáb.

“ Act IV of 1873 is a short Act consisting of only 23 sections, being less than half the number of sections contained in the similar Act passed in the same year for the North-Western Provinces and Oudh; and though its provisions have been supplemented by rules framed under it by the Local Government and rules and bye-laws made by committees with the sanction of the Local Government, it has been found to be defective in many particulars in regard to which the Municipal Acts in force in other parts of India contain express provisions. These defects were brought to the notice of the Panjáb Government so long ago as 1876 by Mr. Plowden, now the senior Judge of the Chief Court, who was then Government Advocate; and, though it was not found necessary to ask for legislation at the time, experience of the last few years shews that steps must now be taken to remedy them.

“ While it would have been possible to effect to give the proposals for the extension of Local Self-government in municipalities made by the Local Government in its Resolution No. 1777, dated 7th September, 1882, by rules under the existing Act, the amendment of that Act appeared to be a more suitable mode of effecting this purpose. The present Bill has accordingly been framed, both with this object and with a view to remove the defects known to exist in the law now in force. It is proposed to repeal Act IV of 1873, so that the

whole of the law applicable to municipalities in the Panjāb may be included in one Act.

“The provisions of the Bill are fully explained in the Statement of Objects and Reasons, and I do not therefore propose to do more than notice some of the more important alterations which it will make in the law.

“By the rules in force under Act IV of 1873, committees are divided into three classes, but the orders and proceedings of committees of the third class are subject to the confirmation of the Deputy Commissioner before they can take effect. The classification of municipalities is now provided for by the Bill, but only two classes are retained, it being thought that any municipalities, the committees of which cannot with advantage be placed in a position of greater independence than that of the third class committees at present, had better be abolished, while those which are fit for higher powers can be transferred to the second class.

“Except in a few of the more important municipalities, in which a portion of the members have hitherto been elected, all the members of municipal committees have hitherto been nominated. It is now proposed to give the committees a more representative character, and for this purpose to have recourse to election where this can properly be done. There are cases, especially on the frontier, in which no form of election would be suitable, and the section relating to the constitution of committees therefore provides either for election or for appointment in the same way as in the Local Self-government Bill, defining, as far as possible, the circumstances under which the system of election, when once introduced, may be departed from. It also raises the proportion of members other than salaried officers of Government from two-fifths to two-thirds of the committee, unless when such officers are elected as members.

“Though, under the existing Act committees might be empowered to elect their chairman, the rules under the Act make the Deputy Commissioner chairman of all municipal committees in his district, and it is only in a few recent instances that any committees have been empowered to elect. Under the Bill, the chairman will be elected, subject to the approval of the Local Government, except where that Government may by notification otherwise direct, but the committee, instead of electing, may apply to the Local Government, to appoint a chairman from among its members. In some cases it is believed that committees will prefer this course to having to make the choice of one of their members as chairman themselves.

“A section has been introduced, enabling the chairman, or in his absence the vice-chairman, in cases of emergency, to exercise all powers of the

committee which the Act does not require to be exercised by the committee at a meeting.

“When a paid secretary is appointed, his appointment, removal and salary are made subject to the sanction of the Commissioner of the division. The office is one for which it is highly important to secure the appointment of a competent man, and such a man might not care to accept office under a committee without some guarantee against arbitrary dismissal. Other servants may be employed by the committee, the Deputy Commissioner being given such powers of control as are necessary to prevent improper appointments or the employment of too large or too expensive an establishment, subject to appeal to the Commissioner. It was at the suggestion of one of the most important municipal committees in the province—that of Delhi—that this check was made applicable to all committees, and not, as originally intended, to second class committees only.

“The subject of taxation is much more fully dealt with in Chapter III than in the corresponding sections (7 to 9) of the existing Act. Those sections contained no description of the taxes which might be imposed. This has now been supplied, and other taxes than those mentioned cannot be imposed without the previous sanction of the Governor General in Council. In the case of taxes on immovable property, a maximum rate has been fixed. The rate of  $7\frac{1}{2}$  per cent. on annual value, with the additional rate of  $2\frac{1}{2}$  per cent. which may be imposed for special objects, may appear high, but this was necessary to cover the rate of 10 per cent. an annual value now sanctioned in Simla. Similarly, the rate of three rupees per running foot of frontage which may be imposed as an alternative to the tax on annual value is the present rate in the main bázár of Simla. It may be regarded as certain that rates so high as these will only be sanctioned in very exceptional cases like that of Simla.

“Some of the taxes enumerated are not now levied in any municipality in the province, but have been included, as it may in some cases be necessary to provide a substitute for the octroi tax, which is the chief source of income of almost all Panjáb municipalities, but which cannot be continued where it is not possible to prevent it from operating as a tax upon through trade. In the case of tolls, which are not allowed by existing rules, it is provided that they may be imposed only where no octroi is levied.

“Instead of section 8 of the present Act, which prohibits the collection of any tax until the assessment has been confirmed as prescribed by rules made by the Local Government—a provision which is clearly inapplicable to indirect taxation like the octroi tax—express rules have been laid down for the assessment, confirmation and collection of taxes on immovable property, and for

the collection of the octroi tax, and the Local Government has been empowered to make rules for the assessment and collection of other taxes. Appeals against taxes or assessments have also been provided for.

“Under the existing Act, municipal taxes may be recovered as arrears of land-revenue. For this a power to recover arrears by distress and sale under the orders of a Magistrate is substituted, and provision is also made for seizing articles on which any octroi tax or toll is chargeable in default of payment of the charge.

“Chapter IV, which relates to the powers and duties of committees, is also in much more detail than the corresponding sections 11 to 17 of the existing Act.

“While the cost of the municipal police is made, as before, a first charge on the municipal fund, provision is made, for the Local Government relieving the committee of such charges on its agreeing to undertake services within the municipality, the cost of which has hitherto been borne by Government, and does not exceed the cost of the establishment ordinarily employed on police duty within the municipality. When the municipal police consists of a body of watchmen, it is proposed to place that body under the orders of the District Superintendent of Police, and provision is made for putting its members on a footing similar to that of members of the general police force, so far as is consistent with their not being enrolled in that force and subjected to general service nor brought under the same rules as to pay and pension.

“Section 67 enables committees, with the previous sanction of the Local Government, to make rules for the prohibition, prevention or punishment of acts or omissions of a similar character to those punishable as public nuisances under the Indian Penal Code, and of offences against public decency. Its form resembles that adopted in the committee on the North-Western Provinces Bill for the similar section in that Bill. Sections 68 to 70 give powers for the prohibition of nuisances, and enable the Local Government to confer powers to issue conditional orders for the removal of nuisances which committees in the Punjab have not hitherto possessed. These are taken, with some modification, from the Municipal Acts in force in the North-Western Provinces and in British Burma.

“In addition to the general powers given to committees to make rules, subject to the sanction of Government, binding on the public, for purposes which are stated more at length in the Bill than in the Act now in force, section 72 gives a special power to committees in hill stations to make rules for the regulation of traffic, and for the prevention of acts likely to cause

serious injury, unless proper precautions are taken, being done without the permission of the committee. Examples of such acts are quarrying or making excavations and cutting down forest trees on private grounds. The general law is, of course, sufficient to prevent such acts being done on public property without proper authority.

"Sections 74 to 85 give certain powers of interference with objectionable trades and with private property, which it has been thought better to include in the Bill than to leave to depend upon the authority of bye-laws, as has hitherto been the case. In this respect the Bill follows the precedent of the Municipal Acts of the local Legislatures of Madras, Bombay and Bengal, though it does not go so far as those Acts do in defining the acts and omissions which should be prohibited within municipal limits.

"Section 89 enables the Local Government to give a power which it is thought may be found convenient in places like Simla, of accepting a small composition for petty nuisances out of Court instead of prosecuting, when the offender consents to pay such composition.

"The sections relating to control in Chapter V are similar to those in the Local Self-government Bill, and take the place of the wide power the Local Government possesses, under the existing law, to suspend or limit all or any of the powers of any committee, and to cancel any of their proceedings or rules. Some of the gentlemen consulted have thought that the powers given to local officers are too great, and have proposed that, in the case of first class committees at least, these powers should be exercised only by the Local Government, but the case in which interference would be most necessary would generally be of such a nature as to call for prompter action than would be possible if nothing could be done until the facts had been reported to the Local Government, and time had been allowed for such enquiry as would satisfy Government that interference was called for.

"Section 94, which requires the orders of the Deputy Commissioner and Commissioner under the preceding sections to be forthwith reported to Government with a statement of the reasons making them, and with any explanation which the committee may wish to offer, affords a check which should prevent any capricious or unnecessary interference; and the experience, which the more important municipal committee have already gained, should preserve them from falling into errors which would render interference necessary. But a sufficient power of control must be reserved to protect the public interests against the effects of negligence or ill-judged action on the part of committees even though the cases may rarely occur in which any interference with the functions of the committee will be necessary. It is only subject to this



condition that committees can be given greater freedom of action than they have hitherto had, but experienced committees, well informed as to the wants of the public, and willing to exert themselves to supply them, so far as the means at their disposal allow, have no cause to fear that they will be exposed to any undue interference.

“The power to make rules to supplement the provisions of the Act given to the Local Government by section 97 and the provisions of the concluding chapters of the Bill call for no remark.”

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 *Panjab Government Gazette* in English and in such other languages as the Local Government might think fit.

The motion was put and agreed to.

The Council adjourned to Wednesday, the 12th September 1883.

D. FITZPATRICK,

SIMLA :  
The 7th September, 1883. }

*Secretary to the Government of India,*

*Legislative Department.*