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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill and Statement of Objects and Reasons accompanying it are published, for general information, by order of His Excellency the Governor General, under the 22nd of the Rules for the Conduct of the Legislative Business of the Council of the Governor General:—

A Bill to regulate the levy of Town-duties and Tolls in Municipalities.

Preamble.

WHEREAS it is expedient to regulate the levy of town-duties and tolls in municipalities in manner hereinafter appearing, and in particular to provide against the levy in any municipality of town-duties upon articles not intended for consumption within the limits of such municipality; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Town-duties and Tolls Act, 1879."

Local extent.

It extends to the whole of British India;

Commencement.

and it shall come into force at once:

Power to postpone operation of the Act.

Provided that the Local Government may, with the previous sanction of the Governor General in Council, postpone the operation of this Act in any municipality in the territories administered by such Government to a date not later than the first day of January, 1881.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Committee."

"Committee" means a Municipal Committee, a Municipal Corporation, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force:

"import."

"import" means to bring within the limits of a municipality from any place without such limits:

"export."

"export" means to take out of the limits of municipality from any place within such limits:

"town-duty."

"town-duty" includes any duty or tax levied under any designation by a Committee upon any thing imported.

Town-duty or toll not to be levied except in accordance with Act.

3. Except in accordance with this Act and the rules made hereunder, no town-duty or toll shall be levied in any municipality.

Prohibition of levy of town-duty—

4. No town-duty shall be levied—

in municipality the population of which is less than five thousand;

(*a*) in any municipality the population of which, as estimated by the Local Government, is less than five thousand persons; or

on article imported for Government.

(*b*) on any article imported by Government or for the use of Government.

Town-duty not to be levied on certain article.

5. No town-duty shall be levied on any article other than articles falling under the heads specified in schedule A hereto annexed, without the previous sanction of the Governor General in Council.

or on any article falling under any of the said heads if any so long as the Governor General in Council prohibits the levy of such duty thereon.

No town-duty shall under any circumstances be levied on any article falling under any head specified in schedule B hereto annexed.

Government to prohibit levy of duty in certain cases.

6. The Governor General in Council or the Local Government shall prohibit the levy of town-duty on any articles in a municipality whenever it appears to him or it that such duty is being levied otherwise than in accordance with this Act, or that the levy of such duty interferes with or obstructs the freedom of trade in such articles within any place beyond the limits of such municipality, or tends to diminish the amount of such trade, or the profits of persons engaged therein.

Refund on exportation.

7. When any article on which town-duty is leviable is exported, the full amount of the duty leviable thereon on its importation shall be refunded to the person exporting such article: Provided that no such refund need be made if the quantity or value of the article exported, or the sum claimable as a refund, is less than such quantity or sum as may from time to time be fixed by the Local Government, subject to the control of the Governor General in Council.

No proof shall ordinarily be required that duty was paid on the importation of such article; but if the Magistrate of the District, or such other officer as may from time to time be specially authorized by the Local Government in this behalf, has reason to believe that no town-duty has been paid thereon, he may order an enquiry to be made; and, if he is satisfied that no such duty has been paid, no refund shall be made.

The right to claim a refund under this section shall not be affected by reason of the article having changed owners since it was imported.

Warehouses to be provided by Committee.

8. The Committee of every municipality in which town-duties are levied shall, subject to the rules to be made by the Local Government under section thirteen, provide within the limits of such municipality warehouses in which all articles of a description chargeable with town-duty but not intended for use or consumption within the limits of the municipality may be stored without payment of duty.

Estimate of probable consumption of dutiable articles to be submitted each year by Committee.

9. The Committee of every municipality in which town-duties are levied shall, on or before the first day of February in every year, submit to the Local Government an estimate for the year commencing on the first day of April then next following, showing—

(a) the population of such municipality;

(b) the probable consumption per head of population during such year within the limits of the municipality of every class of articles chargeable with town-duty;

(c) the probable total consumption during such year, within such limits, of every such class of articles.

In making such estimate, no account shall be taken of the quantity of any article used in the manufacture within the limits of the municipality of any article intended for exportation.

Every estimate submitted under this section shall be published in such manner as the Local Government may direct.

Statements to be submitted each year by Committee.

10. The Committee of every municipality in which town-duties are levied shall, on or before the first day of June in each year, submit to the Local Government a statement for the year ending on the thirty-first day of March last preceding, showing—

(a) the quantity of each class of articles imported during such year, whether chargeable with town-duty or not, which may be required by the rules to be made under section thirteen to be shown in such statement:

(b) the quantity of each class of articles chargeable with town-duty imported and exported during such year;

(c) the amount of duty levied on each class of articles during such year;

(d) the amount paid under section seven as refund on each class of articles during such year; and

(e) the quantity of each class of articles in bond at the close of such year.

Every statement submitted under this section shall be published in such manner as the Local Government may direct.

Presumption that duty has been levied on articles not consumed in the Municipality, when return of quantity on which duty paid exceeds by one-fourth quantity estimated.

11. If it appears from any such statement that the quantity of any class of articles on which town-duty has been paid (after deducting the quantity on which the amount of town-duty has been refunded as provided by section seven) exceeds by more than one-fourth part the quantity estimated by the Committee in accordance with the provisions of section nine as the probable total consumption during the year it shall be presumed, with regard to such class of articles, that town-duty has been levied on it in cases when it is not actually used or consumed within the limits of the municipality, and a report explaining the reason of such excess over such estimated quantity shall forthwith be made by the Committee for the information of the Local Government, and a copy of such report shall forthwith be sent by the Local Government for the information of the Governor General in Council.

Local Government to order that the levy of duty on such articles shall cease.

Unless the Local Government, on receipt of such report or after such further inquiry as it may think necessary, is satisfied that duty has not been so levied, or that such excess is due to some temporary fluctuation in the ordinary course of trade or some other temporary cause, it shall by notification in the official Gazette, order that the levy of town-duty on such class of article shall cease.

On the publication of an order under this section no town-duty shall again be levied on such class of articles until after the expiration of two years from the date of such order.

On such order no duty to be levied on such articles for two years.

The Local Government shall forthwith report every such order and the reasons therefor to the Governor General in Council.

Order to be reported to the Governor General in Council.

12. All town-duties shall be collected by officers directly appointed by the Committee.

Town-duties to be collected by municipal officers.

13. Subject to the control of the Governor General in Council, the Local Government may, from time to time, make rules consistent with this Act for—

Power to Local Government to make rules.

(a) limiting the articles or classes of articles liable to town-duty;

(b) limiting the amount of town-duty leviable upon any article;

(c) prescribing the conditions under which the warehouses referred to in section eight shall be provided and under which articles may be stored therein, and the fees which may be levied for the use of the same; and

(d) prescribing the manner in which the estimate and statement referred to in sections nine and ten respectively shall be prepared.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

14. No toll shall be levied by any Committee unless the same is levied under some enactment for the time being in force and is levied on a road, bridge, quay, wharf or other work solely for the purpose of defraying the cost of the construction of such work, or of its maintenance, or the interest on the capital expended thereon.

Tolls not to be levied except for purpose of defraying cost of construction of work or its maintenance.

If any question arises as to whether any toll is levied solely for the purpose aforesaid, the decision of the Local Government thereon shall be final.

SCHEDULE A.

(*See section 5*).

(*a*.) Articles of food or drink for men or animals.
(*b*.) Animals for slaughter.
(*c*.) Articles used for fuel, for lighting or for washing.
(*d*.) Materials for the construction of buildings.
(*e*.) Drugs, gums, spices, perfumes and tobacco.
(*f*.) Articles of apparel.

SCHEDULE B.

(*See section 5*.)

(*a*.) Salt.
(*b*.) Opium.
(*c*.) Raw cotton.
(*d*.) Raw silk.
(*e*.) Yarns and twist.
(*f*.) Silk thread.
(*g*.) Cotton piece-goods.
(*h*.) Jute.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for the present year, 1879-80, it was stated as follows:—

"In connection with the subject of customs-duties, it may be mentioned here that the Government of India has, for some time past, had under consideration the necessity of imposing more complete checks on the system by which, through a large part of India, octroi-duties are levied for municipal purposes. The Government of India has emphatically condemned the imposition of local taxes on articles which have been either subjected to or relieved from imperial taxation, and has insisted that the duties actually levied shall in all cases fall solely upon articles locally consumed, and shall not be allowed to become taxes on through traffic, or to affect injuriously the general trade of the country.

"Although much has been done in this respect towards the enforcement of appropriate rates, continued attention will be given to the subject, so that there may be no danger of finding that the principles by which the Government of India is guided in regard to its commercial legislation have been set aside by local authorities, and that the efforts taken to free the trade of the country from impolitic restrictions have not thus been frustrated."

It is in fulfilment of the pledge thus publicly given, that the present measure is brought forward.

2. The income of the municipalities throughout a large portion of British India is raised chiefly in the shape of town-duties. The proportion of the municipal income thus raised amounts, in the Bombay Presidency (including the town of Bombay), to about four-sevenths of the whole; in the North-Western Provinces and Oudh, to about ten-elevenths of the whole, and in the Panjáb and Central Provinces, it is much higher; town-duties constituting almost the sole resource of the municipalities of these Provinces.

In many places the people have been familiar with this form of taxation from a time anterior to our rule; but it is obvious that the very popularity of the octroi-system is apt to lead to its being abused. Local authorities are not sorry to be able to provide for local wants at the expense of other people, and to transfer to others their own proper burdens. It is found that in many towns, and among others in some of the most important entrepôts of trade in British India, the incidence of the tax has been extended so far beyond its legitimate bounds, or the collection has been so mismanaged, as either to involve a collision with imperial taxation, or, still worse, to set up what is to all intents and purposes a heavy transit-duty. To quote the words of a resolution issued by the Government of India in 1868, "a widespread system of taxation has been introduced, injurious to interests on which the burden in a great measure falls, and standing in the way of the proper development of the commerce of the country. It is to little purpose that the Imperial Government reduces or abolishes customs-duties in the interests of trade, if Municipalties are permitted to levy duties on articles of commerce passing through their limits."

3. The Government of India, for some years past, has had its attention directed to these serious evils, and instructions have from time to time been issued with a view to their repression.

In 1868, the principles by which these duties should be regulated were laid down. It was stated that they should be restricted to articles actually consumed in the towns, and should not be imposed on articles of general commerce, or interfere with the natural course of transit-trade, and that they must fall entirely on the population of the town for the benefit of which they were imposed. The classes of articles on which octroi-duties might be, and might not be, imposed were enumerated. The necessity for establishing bonded warehouses on a proper footing and giving all due facilities for refunds so as to prevent the tax degenerating into a transit-duty, was insisted on, and attention was drawn to the importance of collecting directly through the servants of the municipality, instead of farming the duties to a contractor.

4. Similar orders have been issued from time to time by the Government of India. Its efforts have not been without effect; but a review of the working of the octroi-system in many municipalities shows that they have fallen far short of attaining the objects in view, and on a full consideration of the whole question, the Governor General in Council is satisfied that the only effectual plan will be to lay down in a legislative enactment the restrictions which it is desired to impose.

It is with this object that the present Bill has been framed. Besides providing for the matters above referred to, it establishes what may be called a self-acting check on the most dangerous abuse of the octroi-system by providing in effect that, when the quantity of any commodity taxed in any town in a given year exceeds by one-fourth the estimated consumption of such commodity in such town during that year, the levy of the tax on such commodity shall, unless the excess is shown to be of a temporary or accidental nature, be suspended for two years.

It has been long the custom in some Provinces to make such estimates with the object of providing a check, such as that which it is now desired to establish, on abuse of octroi-taxation; and the plan has been so useful for that purpose, especially in the North-Western Provinces, that it is hoped it may be found generally applicable.

5. The Bill, besides dealing with the matter of octroi in this way, provides in its fourteenth section that no toll shall be levied in a municipality, except for defraying the cost of construction of the road or other work on which it is levied, together with interest on the same and maintenance-charges. This rule is one generally recognized as a matter of principle; but it has often been disregarded, and it is thought necessary to embody it in the Bill.

(Signed) JOHN STRACHEY.

The 1st December 1879.

D. FITZPATRICK,
Secretary to the Government of India.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[*Published with the "Bombay Government Gazette" on the 18th December 1879.*]

PART VI.

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A Bill to regulate the levy of Town-duties and Tolls in Municipalities.

Preamble.

WHEREAS it is expedient to regulate the levy of town-duties and tolls in municipalities in manner hereinafter appearing, and in particular to provide against the levy in any municipality of town-duties upon articles not intended for consumption within the limits of such municipality; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Town-duties and Tolls Act, 1879."

Local extent.

It extends to the whole of British India;

Commencement.

and it shall come into force at once:

Power to postpone operation of the Act.

Provided that the Local Government may, with the previous sanction of the Governor General in Council, postpone the operation of this Act in any municipality in the territories administered by such Government to a date not later than the first day of January 1881.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Committee."

"Committee" means a Municipal Committee, a Municipal Corporation, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force:

"import."

"import" means to bring within the limits of a municipality from any place without such limits:

"export."

"export" means to take out of the limits of a municipality from any place within such limits:

"town-duty."

"town-duty" includes any duty or tax levied under any designation by a Committee upon any thing imported.

Town-duty or toll not to be levied except in accordance with Act.

3. Except in accordance with this Act and the rules made hereunder, no town-duty or toll shall be levied in any municipality.

Prohibition of levy of town-duty—

4. No town-duty shall be levied—

in municipality the population of which is less than five thousand;

(*a*) in any municipality the population of which, as estimated by the Local Government, is less than five thousand persons; or

on article imported for Government.

(*b*) on any article imported by Government or for the use of Government.

Town-duty not to be levied on certain articles.

5. No town-duty shall be levied on any article other than articles falling under the heads specified in schedule A hereto annexed, without the previous sanction of the Governor General in Council,

or on any article falling under any of the said heads if and so long as the Governor General in Council prohibits the levy of such duty thereon.

No town-duty shall under any circumstances be levied on any article falling under any head specified in schedule B hereto annexed.

Government to prohibit levy of duty in certain cases.

6. The Governor General in Council or the Local Government shall prohibit the levy of town-duty on any articles in a municipality whenever it appears to him or it that such duty is being levied otherwise than in accordance with this Act, or that the levy of such duty interferes with or obstructs the freedom of trade in such articles within any place beyond the limits of such municipality, or tends to diminish the amount of such trade, or the profits of persons engaged therein.

Refund on exportation.

7. When any article on which town-duty is leviable is exported, the full amount of the duty leviable thereon on its importation shall be refunded to the person exporting such article;

Provided that no such refund need be made if the quantity or value of the article exported, or the sum claimable as a refund, is less than such quantity or sum as may from time to time be fixed by the Local Government, subject to the control of the Governor General in Council.

No proof shall ordinarily be required that duty was paid on the importation of such article; but if the Magistrate of the District, or such other officer as may from time to time be specially authorized by the Local Government in this behalf, has reason to believe that no town-duty has been paid thereon, he may order an enquiry to be made; and, if he is satisfied that no such duty has been paid, no refund shall be made.

The right to claim a refund under this section shall not be affected by reason of the article having changed owners since it was imported.

Warehouses to be provided by Committee.

8. The Committee of every municipality in which town-duties are levied shall, subject to the rules to be made by the Local Government under section thirteen, provide within the limits of such municipality warehouses in which all articles of a description chargeable with town-duty but not intended for use or consumption within the limits of the municipality may be stored without payment of duty.

Estimate of probable consumption of dutiable articles to be submitted each year by Committee.

9. The Committee of every municipality in which town-duties are levied shall, on or before the first day of February in every year, submit to the Local Government an estimate for the year commencing on the first day of April then next following, showing—

(*a*) the population of such municipality;

(*b*) the probable consumption per head of population during such year within the limits of the municipality of every class of articles chargeable with town-duty;

(*c*) the probable total consumption during such year, within such limits, of every such class of articles.

In making such estimate, no account shall be taken of the quantity of any article used in the manufacture within the limits of the municipality of any article intended for exportation.

Every estimate submitted under this section shall be published in such manner as the Local Government may direct.

Statements to be submitted each year by Committee.

10. The Committee of every municipality in which town-duties are levied shall, on or before the first day of June in each year, submit to the Local Government a statement for the year ending on the thirty-first day of March last preceding, showing—

(*a*) the quantity of each class of articles imported during such year, whether chargeable with town-duty or not, which may be required by the rules to be made under section thirteen to be shown in such statement:

(*b*) the quantity of each class of articles chargeable with town-duty imported and exported during such year;

(*c*) the amount of duty levied on each class of articles during such year;

(*d*) the amount paid under section seven as refund on each class of articles during such year; and

(*e*) the quantity of each class of articles in bond at the close of such year.

Every statement submitted under this section shall be published in such manner as the Local Government may direct.

Presumption that duty has been levied on articles not consumed in the Municipality, when return of quantity on which duty paid exceeds by one-fourth quantity estimated.

11. If it appears from any such statement that the quantity of any class of articles on which town-duty has been paid (after deducting the quantity on which the amount of town-duty has been refunded as provided by section seven) exceeds by more than one-fourth part the quantity estimated by the Committee in accordance with the provisions of section nine as the probable total consumption during the year it shall be presumed, with regard to such class of articles, that town-duty has been levied on it in cases when it is not actually used or consumed within the limits of the municipality, and a report explaining the reason of such excess over such estimated quantity shall forthwith be made by the Committee for the information of the Local Government, and a copy of such report shall forthwith be sent by the Local Government for the information of the Governor General in Council.

Local Government to order that the levy of duty on such articles shall cease.

Unless the Local Government, on receipt of such report or after such further inquiry as it may think necessary, is satisfied that duty has not been so levied, or that such excess is due to some temporary fluctuation in the ordinary course of trade or some other temporary cause, it shall, by notification in the official Gazette, order that the levy of town-duty on such class of article shall cease.

On such order no duty to be levied on such articles for two years.

On the publication of an order under this section no town-duty shall again be levied on such class of articles until after the expiration of two years from the date of such order.

Order to be reported to the Governor General in Council.

The Local Government shall forthwith report every such order and the reasons therefor to the Governor General in Council.

Town-duties to be collected by municipal officers.

12. All town-duties shall be collected by officers directly appointed by the Committee.

Power to Local Government to make rules.

13. Subject to the control of the Governor General in Council, the Local Government may, from time to time, make rules consistent with this Act for—

(*a*) limiting the articles or classes of articles liable to town-duty;

(*b*) limiting the amount of town-duty leviable upon any article;

(c) prescribing the conditions under which the warehouses referred to in section eight shall be provided and under which articles may be stored therein, and the fees which may be levied for the use of the same; and

(d) prescribing the manner in which the estimate and statement referred to in sections nine and ten respectively shall be prepared.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Tolls not to be levied except for purpose of defraying cost of construction of work or its maintenance.

14. No toll shall be levied by any Committee unless the same is levied under some enactment for the time being in force and is levied on a road, bridge, quay, wharf or other work solely for the purpose of defraying the cost of the construction of such work, or of its maintenance, or the interest on the capital expended thereon.

If any question arises as to whether any toll is levied solely for the purpose aforesaid, the decision of the Local Government thereon shall be final.

SCHEDULE A.

(*See section 5.*)

(*a.*) Articles of food or drink for men or animals.
(*b.*) Animals for slaughter.
(*c.*) Articles used for fuel, for lighting or for washing.
(*d.*) Materials for the construction of buildings.
(*e.*) Drugs, gums, spices, perfumes and tobacco.
(*f.*) Articles of apparel.

SCHEDULE B.

(*See section 5.*)

(*a.*) Salt.
(*b.*) Opium.
(*c.*) Raw cotton.
(*d.*) Raw silk.
(*e.*) Yarns and twist.
(*f.*) Silk thread.
(*g.*) Cotton piece-goods.
(*h.*) Jute.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for the present year, 1879-80, it was stated as follows:—

"In connection with the subject of customs-duties, it may be mentioned here that the Government of India has, for some time past, had under consideration the necessity of imposing more complete checks on the system by which, through a large part of India, octroi-duties are levied for municipal purposes. The Government of India has emphatically condemned the imposition of local taxes on articles which have been either subjected to or relieved from imperial taxation, and has insisted that the duties actually levied shall in all cases fall solely upon articles locally consumed, and shall not be allowed to become taxes on through traffic, or to affect injuriously the general trade of the country.

"Although much has been done in this respect towards the enforcement of appropriate rates, continued attention will be given to the subject, so that there may be no danger of finding that the principles by which the Government of India is guided in regard to its commercial legislation have been set aside by local authorities, and that the efforts taken to free the trade of the country from impolitic restrictions have not thus been frustrated."

It is in fulfilment of the pledge thus publicly given, that the present measure is brought forward.

2. The income of the municipalities throughout a large portion of British India is raised chiefly in the shape of town-duties. The proportion of the municipal income thus raised amounts, in the Bombay Presidency (including the town of Bombay), to about four-sevenths of the whole; in the North-Western Provinces and Oudh, to about ten-elevenths of the whole, and in the Panjáb and Central Provinces, it is much higher; town-duties constituting almost the sole resource of the municipalities of these Provinces.

In many places the people have been familiar with this form of taxation from a time anterior to our rule; but it is obvious that the very popularity of the octroi-system is apt to lead to its being abused. Local authorities are not sorry to be able to provide for local wants at the expense of other people, and to transfer to others their own proper burdens. It is found that in many towns, and among others in some of the most important entrepôts of trade in British India, the incidence of the tax has been extended so far beyond its legitimate bounds, or the collection has been so mismanaged, as either to involve a collision with imperial taxation, or, still worse, to set up what is to all intents and purposes a heavy transit-duty. To quote the words of a resolution issued by the Government of India in 1868, "a widespread system of taxation has been introduced, injurious to interests on which the burden in a great measure falls, and standing in the way of the proper development of the commerce of the country. It is to little purpose that the Imperial Government reduces or abolishes customs-duties in the interests of trade, if Municipalties are permitted to levy duties on articles of commerce passing through their limits."

3. The Government of India, for some years past, has had its attention directed to these serious evils, and instructions have from time to time been issued with a view to their repression.

In 1868, the principles by which these duties should be regulated were laid down. It was stated that they should be restricted to articles actually consumed in the towns, and should not be imposed on articles of general commerce, or interfere with the natural course of transit-trade, and that they must fall entirely on the population of the town for the benefit of which they were imposed. The classes of articles on which octroi-duties might be, and might not be, imposed were enumerated. The necessity for establishing bonded warehouses on a proper footing and giving all due facilities for refunds so as to prevent the tax degenerating into a transit-duty, was insisted on, and attention was drawn to the importance of collecting directly through the servants of the municipality, instead of farming the duties to a contractor.

4. Similar orders have been issued from time to time by the Government of India. Its efforts have not been without effect; but a review of the working of the octroi-system in many municipalities shows that they have fallen far short of attaining the objects in view, and on a full consideration of the whole question, the Governor General in Council is satisfied that the only effectual plan will be to lay down in a legislative enactment the restrictions which it is desired to impose.

It is with this object that the present Bill has been framed. Besides providing for the matters above referred to, it establishes what may be called a self-acting check on the most dangerous abuse of the octroi-system by providing in effect that, when the quantity of any commodity taxed in any town in a given year exceeds by one-fourth the estimated consumption of such commodity in such town during that year, the levy of the tax on such commodity shall, unless the excess is shown to be of a temporary or accidental nature, be suspended for two years.

It has been long the custom in some Provinces to make such estimates with the object of providing a check, such as that which it is now desired to establish, on abuse of octroi-taxation; and the plan has been so useful for that purpose, especially in the North-Western Provinces, that it is hoped it may be found generally applicable.

5. The Bill, besides dealing with the matter of octroi in this way, provides in its fourteenth section that no toll shall be levied in a municipality, except for defraying the cost of construction of the road or other work on which it is levied, together with interest on the same and maintenance-charges. This rule is one generally recognized as a matter of principle; but it has often been disregarded, and it is thought necessary to embody it in the Bill.

(Signed) JOHN STRACHEY.

The 1st December 1879.

D. FITZPATRICK,
Secretary to the Government of India.

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26.12.79

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2. In this Act, unless there is something repugnant in the subject or context,—

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" Committee " means a Municipal Committee, a Municipal Corporation, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force:

" import."

" import " means to bring within the limits of a municipality from any place without such limits:

" export."

" export " means to take out of the limits of a municipality from any place within such limits:

" town-duty."

" town-duty " includes any duty or tax levied under any designation by a Committee upon any thing imported.

Town-duty or toll not to be levied except in accordance with Act.

3. Except in accordance with this Act and the rules made hereunder, no town-duty or toll shall be levied in any municipality.

Prohibition of levy of town-duty—

4. No town-duty shall be levied—

in municipality the population of which is less than five thousand;

(*a*) in any municipality the population of which, as estimated by the Local Government, is less than five thousand persons; or

on article imported for Government.

(*b*) on any article imported by Government or for the use of Government.

Town-duty not to be levied on certain articles.

5. No town-duty shall be levied on any article other than articles falling under the heads specified in schedule A hereto annexed, without the previous sanction of the Governor General in Council,

or on any article falling under any of the said heads if and so long as the Governor General in Council prohibits the levy of such duty thereon.

No town-duty shall under any circumstances be levied on any article falling under any head specified in schedule B hereto annexed.

Government to prohibit levy of duty in certain cases.

6. The Governor General in Council or the Local Government shall prohibit the levy of town-duty on any articles in a municipality whenever it appears to him or it that such duty is being levied otherwise than in accordance with this Act, or that the levy of such duty interferes with or obstructs the freedom of trade in such articles within any place beyond the limits of such municipality, or tends to diminish the amount of such trade, or the profits of persons engaged therein.

Refund on exportation.

7. When any article on which town-duty is leviable is exported, the full amount of the duty leviable thereon on its importation shall be refunded to the person exporting such article :

Provided that no such refund need be made if the quantity or value of the article exported, or the sum claimable as a refund, is less than such quantity or sum as may from time to time be fixed by the Local Government, subject to the control of the Governor General in Council.

No proof shall ordinarily be required that duty was paid on the importation of such article; but if the Magistrate of the District, or such other officer as may from time to time be specially authorized by the Local Government in this behalf, has reason to believe that no town-duty has been paid thereon, he may order an enquiry to be made; and, if he is satisfied that no such duty has been paid, no refund shall be made.

The right to claim a refund under this section shall not be affected by reason of the article having changed owners since it was imported.

Warehouses to be provided by Committee.

8. The Committee of every municipality in which town-duties are levied shall, subject to the rules to be made by the Local Government under section thirteen, provide within the limits of such municipality warehouses in which all articles of a description chargeable with town-duty but not intended for use or consumption within the limits of the municipality may be stored without payment of duty.

Estimate of probable consumption of dutiable articles to be submitted each year by Committee.

9. The Committee of every municipality in which town-duties are levied shall, on or before the first day of February in every year, submit to the Local Government an estimate for the year commencing on the first day of April then next following, showing—

(*a*) the population of such municipality;

(*b*) the probable consumption per head of population during such year within the limits of the municipality of every class of articles chargeable with town-duty;

(*c*) the probable total consumption during such year, within such limits, of every such class of articles.

In making such estimate, no account shall be taken of the quantity of any article used in the manufacture within the limits of the municipality of any article intended for exportation.

Every estimate submitted under this section shall be published in such manner as the Local Government may direct.

Statements to be submitted each year by Committee.

10. The Committee of every municipality in which town-duties are levied shall, on or before the first day of June in each year, submit to the Local Government a statement for the year ending on the thirty-first day of March last preceding, showing—

(*a*) the quantity of each class of articles imported during such year, whether chargeable with town-duty or not, which may be required by the rules to be made under section thirteen to be shown in such statement:

(*b*) the quantity of each class of articles chargeable with town-duty imported and exported during such year;

(*c*) the amount of duty levied on each class of articles during such year;

(*d*) the amount paid under section seven as refund on each class of articles during such year; and

(*e*) the quantity of each class of articles in bond at the close of such year.

Every statement submitted under this section shall be published in such manner as the Local Government may direct.

Presumption that duty has been levied on articles not consumed in the Municipality, when return of quantity on which duty paid exceeds by one-fourth quantity estimated.

11. If it appears from any such statement that the quantity of any class of articles on which town-duty has been paid (after deducting the quantity on which the amount of town-duty has been refunded as provided by section seven) exceeds by more than one-fourth part the quantity estimated by the Committee in accordance with the provisions of section nine as the probable total consumption during the year, it shall be presumed, with regard to such class of articles, that town-duty has been levied on it in cases when it is not actually used or consumed within the limits of the municipality, and a report explaining the reason of such excess over such estimated quantity shall forthwith be made by the Committee for the information of the Local Government, and a copy of such report shall forthwith be sent by the Local Government for the information of the Governor General in Council.

Local Government to order that the levy of duty on such articles shall cease.

Unless the Local Government, on receipt of such report or after such further inquiry as it may think necessary, is satisfied that duty has not been so levied, or that such excess is due to some temporary fluctuation in the ordinary course of trade or some other temporary cause, it shall, by notification in the official Gazette, order that the levy of town-duty on such class of article shall cease.

On such order no duty to be levied on such articles for two years.

On the publication of an order under this section no town-duty shall again be levied on such class of articles until after the expiration of two years from the date of such order.

Order to be reported to the Governor General in Council.

The Local Government shall forthwith report every such order and the reasons therefor to the Governor General in Council.

Town-duties to be collected by municipal officers.

12. All town-duties shall be collected by officers directly appointed by the Committee.

Power to Local Government to make rules.

13. Subject to the control of the Governor General in Council, the Local Government may, from time to time, make rules consistent with this Act for—

(*a*) limiting the articles or classes of articles liable to town-duty;

(*b*) limiting the amount of town-duty leviable upon any article;

(*c*) prescribing the conditions under which the warehouses referred to in section eight shall be provided and under which articles may be stored therein, and the fees which may be levied for the use of the same; and

(*d*) prescribing the manner in which the estimate and statement referred to in sections nine and ten respectively shall be prepared.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Tolls not to be levied except for purpose of defraying cost of construction of work or its maintenance.

14. No toll shall be levied by any Committee unless the same is levied under some enactment for the time being in force and is levied on a road, bridge, quay, wharf or other work solely for the purpose of defraying the cost of the construction of such work, or of its maintenance, or the interest on the capital expended thereon.

If any question arises as to whether any toll is levied solely for the purpose aforesaid, the decision of the Local Government thereon shall be final.

SCHEDULE A.

(See section 5.)

(*a*.) Articles of food or drink for men or animals.
(*b*.) Animals for slaughter.
(*c*.) Articles used for fuel, for lighting or for washing.
(*d*.) Materials for the construction of buildings.
(*e*.) Drugs, gums, spices, perfumes and tobacco.
(*f*.) Articles of apparel.

SCHEDULE B.

(See section 5.)

(*a*.) Salt.
(*b*.) Opium.
(*c*.) Raw cotton.
(*d*.) Raw silk.
(*e*.) Yarns and twist.
(*f*.) Silk thread.
(*g*.) Cotton piece-goods.
(*h*.) Jute.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for the present year, 1879-80, it was stated as follows:—

"In connection with the subject of customs-duties, it may be mentioned here that the Government of India has, for some time past, had under consideration the necessity of imposing more complete checks on the system by which, through a large part of India, octroi-duties are levied for municipal purposes. The Government of India has emphatically condemned the imposition of local taxes on articles which have been either subjected to or relieved from imperial taxation, and has insisted that the duties actually levied shall in all cases fall solely upon articles locally consumed, and shall not be allowed to become taxes on through traffic, or to affect injuriously the general trade of the country.

"Although much has been done in this respect towards the enforcement of appropriate rates, continued attention will be given to the subject, so that there may be no danger of finding that the principles by which the Government of India is guided in regard to its commercial legislation have been set aside by local authorities, and that the efforts taken to free the trade of the country from impolitic restrictions have not thus been frustrated."

It is in fulfilment of the pledge thus publicly given, that the present measure is brought forward.

2. The income of the municipalities throughout a large portion of British India is raised chiefly in the shape of town-duties. The proportion of the municipal income thus raised amounts, in the Bombay Presidency (including the town of Bombay), to about four-sevenths of the whole; in the North-Western Provinces and Oudh, to about ten-elevenths of the whole, and in the Panjáb and Central Provinces, it is much higher; town-duties constituting almost the sole resource of the municipalities of these Provinces.

In many places the people have been familiar with this form of taxation from a time anterior to our rule; but it is obvious that the very popularity of the octroi-system is apt to lead to its being abused. Local authorities are not sorry to be able to provide for local wants at the expense of other people, and to transfer to others their own proper burdens. It is found that in many towns, and among others in some of the most important entrepôts of trade in British India, the incidence of the tax has been extended so far beyond its legitimate bounds, or the collection has been so mismanaged, as either to involve a collision with imperial taxation, or, still worse, to set up what is to all intents and purposes a heavy transit-duty. To quote the words of a resolution issued by the Government of India in 1868, "a widespread system of taxation has been introduced, injurious to interests on which the burden in a great measure falls, and standing in the way of the proper development of the commerce of the country. It is to little purpose that the Imperial Government reduces or abolishes customs-duties in the interests of trade, if Municipalties are permitted to levy duties on articles of commerce passing through their limits."

3. The Government of India, for some years past, has had its attention directed to these serious evils, and instructions have from time to time been issued with a view to their repression.

In 1868, the principles by which these duties should be regulated were laid down. It was stated that they should be restricted to articles actually consumed in the towns, and should not be imposed on articles of general commerce, or interfere with the natural course of transit-trade, and that they must fall entirely on the population of the town for the benefit of which they were imposed. The classes of articles on which octroi-duties might be, and might not be, imposed were enumerated. The necessity for establishing bonded warehouses on a proper footing and giving all due facilities for refunds so as to prevent the tax degenerating into a transit-duty, was insisted on, and attention was drawn to the importance of collecting directly through the servants of the municipality, instead of farming the duties to a contractor.

4. Similar orders have been issued from time to time by the Government of India. Its efforts have not been without effect; but a review of the working of the octroi-system in many municipalities shows that they have fallen far short of attaining the objects in view, and on a full consideration of the whole question, the Governor General in Council is satisfied that the only effectual plan will be to lay down in a legislative enactment the restrictions which it is desired to impose.

It is with this object that the present Bill has been framed. Besides providing for the matters above referred to, it establishes what may be called a self-acting check on the most dangerous abuse of the octroi-system by providing in effect that, when the quantity of any commodity taxed in any town in a given year exceeds by one-fourth the estimated consumption of such commodity in such town during that year, the levy of the tax on such commodity shall, unless the excess is shown to be of a temporary or accidental nature, be suspended for two years.

It has been long the custom in some Provinces to make such estimates with the object of providing a check, such as that which it is now desired to establish, on abuse of octroi-taxation; and the plan has been so useful for that purpose, especially in the North-Western Provinces, that it is hoped it may be found generally applicable.

5. The Bill, besides dealing with the matter of octroi in this way, provides in its fourteenth section that no toll shall be levied in a municipality, except for defraying the cost of construction of the road or other work on which it is levied, together with interest on the same and maintenance-charges. This rule is one generally recognized as a matter of principle; but it has often been disregarded, and it is thought necessary to embody it in the Bill.

(Signed) JOHN STRACHEY.

The 1st December 1879.

D. FITZPATRICK,
Secretary to the Government of India.

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