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# MADRAS RECORD OFFICE.

## Government of Madras.

Financial **DEPARTMENT.**

| G.O. No. 147 | Press / Mis. |
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| 16-19 | |
| Dated 18-4- 1871. | |

16-19 31/32

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Financial Department,*
*18th April* 1871.

Read the following papers:—

No. 16. MINUTE by the Hon'ble J. D. SIM, dated 23rd March 1871.

When the question of submitting our Budgets to the Legislative Council was incidentally mentioned at the Council Table in May or June last by the Hon'ble Mr. Arbuthnot, I expressed my dissent from the proposal. The consideration which I have since given to the subject has not removed the objections which then occurred to me, most of which, I now find, have also occurred to the Hon'ble Mr. Mayne, and are contained in his speech of the 20th ultimo on the Local Funds Bill. I still regard the proposed measure as premature and illusory, and as combining very little of practical utility with very much of possible inconvenience.

2. The government of the Presidency is vested by Law in "the Governor in Council"—all nominees of the Crown, and responsible to the Supreme Government and the Secretary of State for their administration of the country. The Members of the Legislative Council, on the other hand, are appointed by the Governor *ex proprio motu*, and are absolutely irresponsible for their acts or the consequences of their acts. They can neither be removed during their tenure of office nor held answerable for aught they do. It seems to me anomalous and contrary to all sound principle to invest a body, thus constituted, thus irresponsible, and without even a representative character, with the power, as the Hon'ble Mr. Mayne expresses it, "to discuss, modify, and perhaps over-rule the whole executive policy of the Government," and "to arrogate to themselves a great part of the administration of the country."

3. It is urged, however, that no evil results can ensue, because there will always be a majority of official members in the Council. This, however, strikes me as simply implying that the measure is, if I may so term it, a "sham," and basing the advocacy of it rather on the facility with which it can be rendered innocuous than on any intrinsic merit it possesses. All fictions are, however, injurious. It will be difficult, I apprehend, to persuade such gentlemen as we require and have in the Legislative Council to acquiesce in this kind of arrangement and accept this position of practical impotence. It certainly appeared to me that our colleagues contemplated a much larger share of real power. It is, I think, too much to expect such a body to submit placidly to being controlled by the "official majority," and, indeed, I should apprehend that the openly-avowed reliance of the Executive on this "official majority" would produce irritation and resentment—it is hard to suppose that it will tend to harmonious action.

4. It is not necessary to contemplate any actual misuse of their power on the part of the Legislative Council. Mr. Mayne, in his speech, gives many instances in which the Council might, not only without impropriety, but as a duty and from sincere conviction, seriously embarrass the action of the Executive Government. It was matter of notoriety, at the time, that grave complications occurred in the Governor-General's Council, before it was constituted as it now is, and it is generally believed that these led to the very stringent provision in the present Statute restraining the Legislative Council from all interference in the ordinary administration of the country.

5. The proposal to bring in an Annual Appropriation Bill is but an expedient, and perhaps not a very convenient one, for evading the terms of the Statute and enabling the Council to do what Parliament has especially declared that it shall

*not* do. No one can read the language of Sections 29 and 38 of the Indian Councils Act (24 and 25 Vic., Cap. 67) without seeing that it was the deliberate intention of Parliament that the Legislative Councils should *not* exercise any administrative functions whatever, or have any voice in the executive government of the country. Constituted as these Councils are, I cannot but think the decision right; but, whether it be right or whether it be wrong, we are not justified, as I think, in evading it by technical expedients. There is little analogy between what is proposed here and the course annually adopted by the Financial Member of the Government of India in the Governor-General's Legislative Council. *There*, an exposition of the finances is made, and a new Law, or some change in the existing Laws, proposed. The Council deals with the latter only; it cannot otherwise interfere with the financial arrangements of the Executive Government. *Here*, it is proposed yearly to frame a Law for no other purpose than to enable the Council to deal with the financial arrangements of the Government. It is obvious that the latter proposal goes far beyond the former, and, however veiled, is an infringement of the Statute.

6. On the other hand, I cannot myself see what particular advantages are to be expected from the measure. The Law itself declares how the funds raised under it are to be appropriated, and creates the bodies by which they are to be utilized subject to the control of the Executive Government. The main principle of the new Law is to develope local self-government and to localize the expenditure as much as possible, and with this intent it creates Local Fund Boards in every District and Commissions in every Municipality. Every project, whether for raising money or for spending it, will be duly considered in the district by the Local Board of official and unofficial Members; it will be reconsidered again by the Executive Central Department, whether Board of Revenue, or Director of Public Instruction, or some other; and it will be finally revised by the Executive Government. The further interference of the Legislative Council is surely superfluous. The local independence and government which we desire to develope will be reduced to a shadow by the reduplication of controlling authorities at the Presidency.

7. The time will come, no doubt, when the administration of the country will have to be more opened to the people, but many changes must precede this measure. We must have greater administrative independence, our subordination to the Supreme and Home Governments must be greatly relaxed, and the body to whom the administration may be entrusted must be differently constituted from the present Legislative Council, so as to give it a representative and responsible character.

8. Meanwhile, every useful object sought to be attained by the proposed measure can be obtained with greater certainty and less inconvenience and embarrassment by simply laying our Budgets on the "Editors' Table." They will thus obtain the widest publicity and evoke criticism from every class of the community.

(Signed) J. D. SIM.

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No. 17. MINUTE by the Hon'ble A. J. ARBUTHNOT, dated 8th April 1871.

I adhere to the opinion that it is desirable that the Provincial Budget should be submitted to the Legislative Council, as directed in the recent Financial Reso-



lution of the Government of India, and that, with reference to the 19th Section of the Indian Councils Act of 1861, the only legal and proper mode of effecting this object is to incorporate the Budget in an Annual Appropriation Bill, to be passed by the Council in the same manner in which the annual estimate for contingent services is passed by the Legislative Council in Ceylon.

2. It has been shown in the debate which took place on this subject in the Council here that the views of the Government of India in regard to an annual exposition of the provincial receipts and expenditure being made in the Legislative Council cannot legally be carried out in the minor Presidencies, unless some such expedient as that referred to be adopted; but, if the case were otherwise, I should still consider it desirable, if the Budget is to be laid before the Council at all, that there should be a distinct understanding that the Council is to be at liberty to review and criticise, and, if necessary, to alter the proposed allotment of funds; for I cannot perceive any useful purpose in submitting a Budget to a Council, if the Council is not to be at liberty to alter its provisions.

3. Mr. Sim is opposed to the arrangement which has been suggested on the following grounds:—

*First*, that the Members of the Legislative Council, excepting those who form the Executive Government, are not appointed by the Queen, and are not, and cannot be held responsible for their acts.

*Secondly*, that to entrust to the Legislative Council the powers proposed would be inconsistent with the intention of Parliament in passing the Indian Councils Act of 1861.

*Thirdly*, that the intervention of the Legislative Council in those matters which are to be dealt with by the Local Fund Boards and Municipal Commissions, to be constituted under the Acts recently passed, is calculated to reduce local independence, and is, therefore, inexpedient.

4. The assertion that the Additional Members of the Legislative Council are not responsible for their acts is one with which it is rather difficult to deal; for there is probably no word in the English language which involves so much that is vague and indefinite as the word "responsible," and no thing which it is more difficult to define and enforce than responsibility. My Hon'ble Colleague appears to think that, because the Additional Members cannot be removed from office before the expiration of the period for which they are appointed, therefore, they must be regarded as irresponsible for their acts; and, although he does not expressly say so, I infer from the tenor of his remarks that he also regards the fact that the non-official Members receive no salaries from the State as relieving them from the whole, or at all events from a great part, of the responsibility which would otherwise attach to them. This, it appears to me, is hardly a correct view of the position of the Members in question. I submit that every man who undertakes duties, of whatever description, is responsible to some one or other for the proper discharge of those duties. If the duties undertaken are of a public character, the person who undertakes them is responsible to the public, nor is this responsibility in any considerable, if in any, degree lessened by the circumstance that the duty is unpaid. In such a case as that now under consideration, the principal motive which operates to enforce the

debates, but in the nature of the subjects brought under discussion, there has been, in practice, a wide departure from the avowed intention of the framers of the Act of 1861. The introduction into the Local Councils of an Appropriation Bill dealing with the provincial and local funds would certainly be a further departure from the opinions which influenced the Legislation of 1861, but it would be in no way opposed to the provisions of the Act as actually passed.

9. The matter, as I view it, stands thus. The Government of India have recently introduced an important administrative change, the effect of which is to give to each Presidency and Province a Provincial Budget, and, in the Resolution announcing the change in question, the Governor General in Council has suggested that, in those Presidencies and Provinces which have Legislative Councils, the exposition of the annual Provincial Budget should take place in the Local Legislative Council. The object of this suggestion, it may be assumed, is to ensure publicity and criticism; but, as the Law now stands, the suggestion cannot legally be acted on except by adopting the expedient of an Annual Appropriation Bill. The submission of the Budget in any form to the Legislative Council involves, to say the least, a divergence from the intentions of the framers of the Act of 1861, but, in the form in which the Madras Government propose to submit it, does not involve a breach of the provisions of the Act. In all the Councils, and especially in the Council of the Governor-General, there has been a wide departure from the understood intentions of the Legislation of 1861; and now it is proposed to go a step further in the same direction, in consequence of an important administrative change, which was not contemplated by Parliament in 1861. The question is whether that step, which, though open to the objection I have stated, is clearly not illegal, should be taken, or whether the project of submitting the Provincial Budgets to the comment and criticism of the Legislative Council should be abandoned. For the reasons stated in the draft letter to the Government of India, and fully detailed in the debate in the Council, I am decidedly in favour of adopting the former course.

(Signed) A. J. ARBUTHNOT.

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No. 18. MINUTE by His Excellency the PRESIDENT, dated 13th April 1871.

I have little to add to the Minute recorded by my Hon'ble Colleague, Mr. Arbuthnot, which embodies in general my sentiments with reference to the participation of the Legislative Council in the discusssion of provincial and local funds' appropriations.

2. The measure has been contemplated by the Government of India; the suggestion has exercised considerable influence on the deliberations of the Legislative Council here; it is conformable to views expressed by Mr. Arbuthnot and myself on previous occasions. I consider that we are engaged to it, that we must continue to advocate it, and do all we can to carry it into execution.

3. I do not anticipate any large share of practical action on the part of the Legislative Council in this matter. The local funds will be voted in Local Committees in which the wants of the country will be best understood; the appropriations will be revised by the Executive Council with the benefit of the advice of experienced Revenue Officers and with the strongest inclination to meet

*Proceedings of the Madras Government, Financial Department,*
18*th April* 1871.

the views of the parties directly interested. It is not probable that the unofficial Members of the Legislative Council will enter upon a course of meddling intervention in detail where local and superior authority have already recorded their decisions; but I expect some advantage from publicity and some from actual criticism and suggestion. Publicity will keep up a livelier interest in the appropriation of local and provincial funds, stimulate the attention of Government, and prevent their action from degenerating into indifference and routine. The criticism of the unofficial Members may not often be exerted for the benefit of localities or with a better knowledge of their wants; but the application of local and provincial funds involves many questions of importance concerning education, police, prison discipline, sanitation, and medical establishments, in which the unofficial Members may be very competent to offer valuable counsel and to represent the sentiments of large classes of the community in an authoritative manner. Such expressions of opinion may not have an immediate effect in particular instances, but they will not be without influence in shaping the course taken both by the Local Funds Committees and the Executive Government.

4. I am not disposed to ascribe much importance to the objections urged by Mr. Sim on the score of legal difficulties, or the views of Government and Parliament in former times, or with reference to the irresponsible character of non-official Members. The principles of government in India are in a state of gradual transformation. I do not think that the non-official Members will be factious or the official Members inflexible. I believe that the deliberations of our Legislative Councils on local funds' appropriations will be conciliatory and harmonious, that the method will be conformable to the spirit of the age, and that the results will be satisfactory.

(Signed) NAPIER.

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No. 19. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 18th April 1871, No. 147.

I am directed to state, for the information of His Excellency the Governor-General in Council, that, during the discussion of the Bills for imposing local taxation which have recently been passed by the Local Legislature, much prominence has been given to the Resolution of the Government of India, Financial Department, dated 14th December 1870, No. 3334, and especially to paragraph 19 of the Resolution, in which it is laid down that each Local Government will publish its own Provincial Service Estimates and Accounts in the local Gazette, together with a financial exposition *(which should, where possible, be made before the Local Legislative Council)* analogous to that annually made in the Legislative Council of the Governor-General.

2. In the debates which have taken place in connexion with these Bills, it has been generally assumed that, in issuing the instructions given in the paragraph above quoted, it was the intention of the Government of India to concede to the Local Legislative Councils the faculty of fully discussing the Provincial Budgets, and that the assignments of the funds raised by local taxation, and which will be included in the Provincial Budgets, were also to come under the review of the Councils.

1871.

FINANCIAL DEPARTMENT.

*From*

*The Chief Secretary to Government,*

*Fort Saint George,*

*To*

*The Secretary to the Govt. of India,*

*Financial Department,*

*Dated 18th April 1871.*

*Recd.*

No. 147.

Enclosure.

APRIL.
Nos. 16—19.

Submitting the views of Government as to the manner in which effect should be given to the Resolution of the Government of India requiring a financial exposition to be made annually before the Local Legislative Council in connexion with the Provincial Budget, together with the Minutes recorded by the Members of Government on the subject.

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[illegible]

* [illegible] on Budgets to the Legislative Council was incidentally mentioned at the Council table in May or June last by the Hon'ble Mr Arbuthnot, I expressed my dissent from the proposal. The consideration which I have since given to the subject has not removed the objections which then occurred to me — most of which, I now find, have also occurred to the Hon'ble Mr Mayne and are contained in his speech of the 20th ult. on the Local Funds Bill. I still regard the proposed measure as premature & illusory — & as combining very little of practical utility with very much of possible inconvenience.

The Govt. of the Presidency is

related by laws in "the pvt in Council" - ale
nominees of the Crown - and responsible to
the Supreme pvt & the Secty of State for their
administration of the country - The members
of the Legislative Council on the other hand
are appointed by the pvt ex officio & are
and are absolutely irresponsible for their
acts or the consequences of their acts - They
can neither be removed during their tenure of
office - nor held answerable for aught they do.
It seems to me an anomalous & contrary
to all sound principle to invest a
[illegible] body - [illegible] - thus consti-
-tuted - and without even a tolera-
-ble tribunal character - with the power, as
the Amdt Bill empowers & charges it, "to
discuss - modify and determine all ques-
the whole Executive policy of the pvt"
and "to participate to their full extent in
great part of the administration of
the country".

It is urged however that as
evil results can only be caused by

there will always be a majority of official
members in the Council. This however strikes me
as [illegible] timidly implying that the mem-
-ber is, if I may so term it - a "sham" and
setting the advocacy of it
on the facility with which it can
be rendered innocuous than on any
intrinsic merit it possesses. All pictures
are known in prison - It will be difficult
to persuade that
exalted, & unfortunate, to persuade that
gentlemen as the Deputies & those in
the Legislative Council to acquiesce in
this kind of abnegation of practical importance
this kind of position - It certainly ap-
-peared to me that our colleagues enter-
-tained a much larger share of real
power - It is, I think, to avoid the
-possibility of a body so constituted placidly
& being controlled by the "official majo-
-rity" and indeed I should advise that
that the openly avowed reliance of the Ex-

-centure on this "official majority" would
produce irritation & resentment - it is
hard to suppose that it will tend to
harmonious action.

It is not necessary to
contemplate any actual conflict of
power on the part of the Legislative
Council - We may see in his Excellency
many instances in which the Council
might - not only without impropriety
but as a duty - and from the most
conscientious - seriously embarrass
the action of the Executive Govt. It
was a matter of difficulty at the
time that your communication re-
curred in the Govr Genl Council.
Before it was constitutional as
it now is and it is generally believed
that there lack to the very slightest
possible in the present Statute. &c.

2/ all interference in the ordinary ad-
ministration of the Country.

The proposal to bring in an
Annual Abdication Bill is not an
Expedient - and besides not a very
convenient one - for evading the terms
of the Statute and enabling the Council
both & that Parliament however briefly
declared that it shall not do - the
one can read the language of Sect
29. & 38 of the Indian Councils Act /
24 & 25. Victoria. Cap 67 / without seeing that
it was the deliberate intention of Par-
liament that the Legislative Councils
should not Exercise any executive
functions whatever or have any voice
in the Executive government of the
Country - Constitutional as these Councils
I cannot but think the decision
right - but whether it be right or whether

it be wrong, we are not justified, as I think, in evading it by technical subterfuge. There is little analogy between what is proposed here and the course annually adopted by the Financial Members of the Govt of India in the Govt Council - There, an estimate of the Finances - & is made - and a new law - or some change in the existing laws be framed. The Council deals with the latter only - it cannot otherwise interfere with the financial arrangements of the Executive Govt. Here it is proposed yearly to frame a law for the other powers than to enable the Council to deal with the financial arrangements of the Govt. It is obvious that the latter proposal goes far beyond the former - and, however veiled, is an infringement of the Statute.

17 20

On the other hand I cannot myself see what particular advantages are to be expected from the measure. The Law itself declares how the funds raised under it are to be apportioned - and creates the bodies by which they are to be administered subject to the control of the Executive Govt. The main principle of the new Laws is to develope local self-government and to localize the Expenditure as much as possible - and with this intent it creates Local Fund Boards in every District and Committees in every Municipality. Every proposal - whether for raising money or for spending it - will be duly considered in the District by the Local Board of official & unofficial members - it will be re-considered again by the Executive Central Govt - whether that of the Govt or Director of Public Instruction or some other - and it will be finally decided by the Executive Govt. The position

interference of the Legislative Council is
solely to prevent which he desires to declare
will be reduced to a shadow by the repe-
-plication of continuing on the writers at the
Presidency.

~~The Governor has not invited the~~ for
~~arbitrary powers of the Executive Council.~~ The
time will come when the Govt. and the Admi-
nistration of the country will be known
to be more closely united to the benefit. But
many changes must be made before
he can be known as an Administration
or be known as the Government of the
first time it be justly balanced and
the Legislature the body to be known
the administration may be entrusted
must be different constituted from
the present Legislative Council. so as to
give it a representative character which
2 acts. See ‡ J. D. Sim
23rd March 71 In ~~his~~ replying to the Gov-
-ernor Queensland Mr Cole & Lieutenant Col S
-appointing our colleagues - the Governor & Executive

Finl (1871) dept.

Minute by the
Hon'ble J. D. Siriw, C.S.I.

20 Apl

S.G. 147

dated 23rd March

No 174

On the question
of submitting the Pro-
vincial Budget to
the Legislative Coun-
cil for discussion.

D. 17

Minute 8 Apl 21

I am aware of no provision that it is directly laid the Provincial Budget should be submitted to the Legislative Council, as directed in the recent Financial Resolution of the Government of India, until with reference to the 19th Section of the Indian Councils Act of 1861, the only legal and proper mode of effecting this object is to incorporate the Budget in an annual Appropriation Bill, to be passed by the Council in the same manner as that the annual estimate for Contingent services is passed by the Legislative Council in England.

It has been shown in the debate which took place on this subject in the Council that

must be made of the Government of India in regard to any annual expenditure of the Provincial Revenues of expenditure being made in the Legislative Council cannot legally be carried out in the Lower Provinces unless some such expedient as that referred to be adopted; but if the case were otherwise, I should still consider it desirable, if the Budget is to be laid before the Council at all, that there should be a distinct understanding that the Council is to be at liberty to make its criticisms and, if necessary, to object to the proposed allotment of funds, for I cannot perceive any useful purpose in asking the Council to consider the Budget, if the Council is not to be at liberty to alter its provisions.

The case is different to the arrangements which have been suggested, on the following grounds:

First that the members of the Legislative Council,

employing there the Provincial Government, are not appointed by the Queen & are not a council to which responsible for their acts.

Secondly that to entrust to the Legislative Council the power proposed would be inconsistent with the intention of Parliament in passing the Indian Councils Act of 1861.

Thirdly that the introduction of the Legislative Council in those matters which are to be dealt with by the Local Finance Boards & Municipal Commissioners to be constituted under the Act recently passed is calculated to produce local dissatisfaction and is therefore inexpedient.

The objection that the additional members of the Legislative Council are not responsible for their acts is one with which it is rather difficult to deal, for that is practically the word in the

English language which is more
to mock than is vague and indefinite
as the word responsible, and
no thing which it is more difficult
to define and enforce than
responsibility. Any lawyer will
willingly appear in which that
because the Public Prosecutor
cannot be moved from office
upon the application of the person
for which they are appointed,
they must be regarded as irresponsible
for their acts, and although he
does not expressly say so, I infer
from the tenor of his
remarks, that he also regards
the first that the non-official
members must be taken from
the State, as relieving them from
the check, or at all events from a
great part, of the responsibility
which would otherwise attach
to them. This appears to me
to hardly a correct view of the
position of the members in practice.
I submit that any man who undertakes
duties, of whatever description, is



responsible to some one or other
for the proper discharge of those
duties. If the duties undertaken
are of a public character, the
person who undertakes them
is responsible to the public,
and in this responsibility is
any considerable, if not many,
degree lessened by the circumstance
that the duty is unpaid. In
such a case as that now
under consideration, the
principal motive which
operates to enforce the
responsibility (leaving out
of account a conscientious
sense of duty) is regard to
the good opinion of the public
which, as we all know, is a
very powerful incentive with
the majority of mankind.
Nor are those motives altogether
absent which would especially
apply to the Judicial Officers
of the State. It is true that
the additional members of an
Indian Council cannot be
removed from office thus

appointments upon the expiration
of the appointed time of
office, but as the appointment
is more or less a constant distinction,
it ought to exist unbroken
is liable for a very limited period,
and may be, and in practice
often is, renewed, a motive is
furnished for the exact discharge
of duty, which, if not quite, is
very nearly as powerful as that
which is supplied by the alternative
of the power of removal from
office, which is vested in the
members of the Executive Council
is vested in the Majority.
I am persuaded that in practice
the members of the Legislative
Council perform their duties
under a sense of responsibility
fully as cogent as that which
influences the members of the Executive
Government.

To the third objection advanced
by my colleague I must also demur.
I cannot perceive in what respect
the retaining power of the Legislative
Council of the Budget passed
by the Local Road Boards and



municipal Commissioners
substituted to enter those
Boards and Commissioners by
is dependent than they would
be, if the power of control
over them was vested exclusively
in the Executive Government.
If the power in Council is to
be at liberty to revise & alter
the estimates & projects of the
Local Boards, I do not see
that it can make any difference,
as regards the dependence
of those Boards, whether that
revision is finally made
in the Executive Council or in
the Legislative Council.
The only ground, as it appears to
me, upon which any just exception
can be taken to the existence
is that the entire control of the
Legislative Council is admitted
to native matters are not
contemplated by Parliament
when it passed the Victoria
Council Act of 1861. In this
point I agree with my honorable
Colleague that the framers of

the Act actually did not
authorize, but actually
denied & guard against, the
interference of the Legislative
Council in matters of an administrative
& executive character; but during
the period, now nearly ten years,
which has elapsed since
the Act in question was passed,
many things which were not
anticipated, may which were
expressly denounced, at the
time have taken place and
that not only without opposition
from, but with the express
sanction of the very Ministers
who framed the Act. One of
the chief objections taken to the
proceedings of the Legislative
Council established by the late
Governor of Dalhousie under
the Act of 1853 had reference
to the formality & publicity of
its debates. Lord Canning
suggested that the business of
the new Legislative Councils
should be conducted "as in a
Committee or Commission and
not in the form of a set parliamentary
debate", and in the discussions



which preceded the passing of
the Act of 1861 in both Houses
of Parliament reference was
frequently made, generally
in terms of condemnation,
to the 138 standing orders passed
at the instance of Lord Dalhousie
by the Legislative Council
of 1853, and the inference of
enacting the Council into
such a petty Parliament
was constantly drawn —
but yet no sooner was the
Act of 1861 brought into
operation, than in each
Council arrangements were
made for prescribing forms
of procedure similar to those
observed in their Legislative
Assemblies, the proceedings
of the Council were practically
thrown open to the public,
the admission of reporters
was allowed, and all this
was done under the authority
of standing orders, which
in this Presidency amount
in number to 56, and which
received the sanction of the

Secretary of State by whom the Act was introduced. The truth is that it is impossible to read the debates which took place on the passing of the Act without perceiving that Parliament when it resolved to alter the system which had obtained under the Act of 1853, did not clearly know its own mind in regard to certain very important points in connexion with the system which it was about to introduce - It endeavoured to reconcile two things which were essentially incompatible viz: the informality of procedure which obtains in a Cabinet or Committee in proceedings of which are either strictly private or if published are published in an abstract form or in the form of a report stating the result of the Committee's deliberations, and the publication from day to day of the speeches delivered and the remarks made by the members of a Council. It is quite clear from Lord Canning's letters that the latter arrangement



was not contemplated by him when he advocated a change in the system, and it is clear from Lord Halifax's opening speech in opening the session of 1861 that his views & those of Lord Canning's on this point were the same but when the practice of the daily publication of the proceedings of the Council was revived, the reply of the Secretary of State was to the effect that this matter would be left to the discretion of the Governor General; and as we know, the result has been that the debates in the Indian Councils are published from day to day and that the official reports of them are as full as ever and as detailed as Hansard. The only trace that the reports bear of what originally appears to have been originally contemplated is that they are headed as "abstracts of the proceedings of the Council" the fact being that they are in no sense abstracts but are full & complete reports.

I mention this matter as showing how widely the original designs of the framers of the Act have departed from on one very important point, - a departure which cannot be said to have been rendered necessary by any material alteration of circumstances.

In regard to the particular question now under consideration, it must, as I have said, be admitted, that the extinction of the Legislative Councils of Budgets dealing with the finances of the country, whether Imperial or Provincial or Local, is an arrangement, which, as far as can be gathered from the debates, was not contemplated by the framers of the Act of 1861, but it is equally certain that during the whole of the period which has since elapsed, the exposition of the financial measures of the year before the Council of the Governor General has been an event of annual occurrence, and although these Budgets are not voted on by the Council, they are liable to, and not unfrequently, are subjected to, criticism of a searching character in debates, [illegible]



which are at once published and circulated throughout the country. And not only is there on these occasions a general exposition of the financial position of the Empire, but in accordance with the practice introduced last year by the present Governor General, the several members of the Executive Government deliver explanatory statements of the operations of the several departments under their charge - which are similarly liable to comment and criticism from the other members of the Council. It is plain, I think, that not only in the form & publicity of the debates, but in the nature of the subjects brought under discussion, there has been a wide departure from the provisions of the Act of 1861. In connection with the Local Councils of an Appropriation Bill for dealing with the Provincial and Local Funds would certainly be a further departure from the principles which governed the legislation

of 1861, but it would be in no way opposed to the provisions of the Act as actually passed.

The matter, as I view it, stands thus. The Government of India have merely introduced an important administrative change, the effect of which is to give to each Presidency and Province a Provincial Budget, and in the Resolution announcing the change in question it is suggested that in those Presidencies and Provinces which have Legislative Councils the proposition of the annual Provincial Budget should take place in the Local Legislative Council. The object of this suggestion, it may be assumed, is to ensure publicity and criticism, but as the law now stands, the suggestion cannot legally be acted on except by adopting the enactment of an annual Appropriation Bill. The submission of the Budget in any form to the Legislative Council involves, to say the least, a divergence



from the principles of the Act of 1861, but in the form in which the Indian Government proposes to submit it, does not involve a breach of the provisions of the Act. In all the Councils, and especially in the Council of the Governor General there has been a wide departure from the understood intentions of the legislation of 1861, and now it is proposed to go a step further in the same direction in consequence of an important administrative change, which was not contemplated by Parliament in 1861. The question is whether that step, which, though open to objection, I have stated, is clearly not illegal, should be taken at the discretion of submitting the Provincial Budgets to the comments and criticisms of the Legislative Council should be abandoned. For the reasons stated in the despatch of the Government of India and

Finl 118

Minute by the
Hon'ble A. J. Arbuthnot
C.S.I.

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S.O. 147.

Dated 8th April.

No 172

On the question of
submitting the Pro-
vincial Budget to
the Legislative
Council for dis-
cussion.

L. 16

6

Minute by H.E. The President. 3/4

I have little to add to the Minute recorded by my Hon'ble Colleague Mr. Arbuthnot which embodies in general my sentiments with reference to the participation of the Legislative Council in the discussion of Provincial and local Funds appropriations.

The measure has been contemplated by the Government of India. The suggestion has elicited considerable influence on the deliberations of the Legislative Council here. It is conformable to views entertained by Mr. Arbuthnot and myself on previous occasions.

I consider that we are engaged to it,
that we must continue to advocate it
and do all in our to carry it into
execution.

I do not anticipate any large share
of practical action on the part of the
Legislative Council in this matter.
The local funds will be voted in
local Committees in which the wants
of the Country will be best understood,
the appropriations will be revised by the
Executive Council with the benefit
of the advice of experienced revenue
Officers and with the strongest
indication to meet the views of-

the parties directly interested. It is not
probable that the unofficial members of the
Legislative Council will enter upon a
course of meddling intervention in detail
where local and superior authority have
already rendered their decisions. But-
I expect some advantage from publicity
and some from actual criticism and
suggestion. Publicity will keep up a
livelier interest in the appropriation
of local and municipal funds,
stimulate the attention of Government
and prevent their action from
degenerating into indifference and
contempt. The criticisms of the unofficial
members may often be exerted

for the benefit of localities are unlikely to
a better knowledge of their wants -
but the application of local & provincial
funds involves many questions of importance
concerning Education. Police. Prison discipline,
Sanitation and Medical establishments
in which the unofficial members may be
very competent to offer valuable counsel
and to represent the sentiments of large
classes of the community in an authoritative
manner. Such inspiration of discussion
may not have an immediate effect in
particular instances but they will
exert a constant influence in shaping the
course taken both by the local Funds
Committees & the Executive Government.

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I am not disposed to ascribe much importance
to the objections urged by Sir Jim on the
score of legal difficulties & the views
of Governments and Parliament in
former times & with reference to the
services & the character of non official
members. The principles of Govt. in
India are in a state of gradual
transformation - I don't think that
the non-official members will be
factious or the official members
inflexible - I think that the
deliberations of our Legislative
Councils on local funds applications

with be conciliatory & harmonious,
~~useful~~, and that the methods
will be conformable to the object
of the age, and that the results
will be satisfactory. —

Napier

Madras. April 13th 1871.

Fin.l 1871 Dep.t

20/4.

Minute by the Hon.ble the President

S.O. 147.

Dated 13th April/71

No. 169

Records his views with reference to the participation of the Legislative Council in the discussion of Provincial & Local Funds appropriations.

L. 18

dep.t 19/4

47

Financial Department

No. 147.

To

The Secretary to the Govt. of India
Financial Department

Sir,

I am directed to state for the information of His Excellency the Governor General in Council that during the discussion of the Bills for imposing local taxation which have recently been passed by the Local Legislature, much prominence has been given to the Resolution of the Govt. of India, Financial Dep.t dated 14th Dec.r 1870, No. 3334, - and Especially to para.h 19 of the Resolution in which it is laid down that Each Local Government will

A/4

10/5

I have stated my views to Mr. L. 10/5

will publish its own Provincial Service Estimates and Accounts in the local Gazette, together with a financial Exposition (which should, where possible, be made before the local legislative Council) analogous to that annually made in the Legislative Council of the Governor General.

2. In the debates which have taken place in Connection with these Bills, it has been generally assumed that by the instructions given in the para[graph] above quoted it was the intention of the Govt of India to concede to the Local Legislative Councils the faculty of fully discussing the Provincial Budgets, and that the assignments of the funds raised by local taxation, and which will be included in the Provincial Budgets, would also come under the review of the Councils.

in spring

Such

3. Such a course would, I am directed to state, be entirely in accordance with the views of this Govt, who anticipate very great advantages from the Examination and criticism to which these Provincial Budgets will thus be subjected. The Govt are of opinion that this publicity will ensure, in the first instance, a very careful preparation of the Budgets, of which every item will be liable to criticism, and may require the fullest explanation; and that not unfrequently valuable suggestions as to the apportionment of the funds will be offered by the Non-official Members of the Council.

4. The Govt believe that they have correctly interpreted the views of the Govt of India in supposing that the Budgets are to be fully discussed as indicated above; and I am to state that this liberal concession to the Legislative

* the Govt in Council
+ the Govt in Council
* the Govt in Council

spirit
would say
consider the
or learn the
revised
Govt in Council is

I would say "hope".
I am a timid man
I do not believe it
H. N.

"Presume" would better meet my views. I do. H. N.

-lative Council of a reasonable Control over the assignment of funds raised by local taxation, has not only exercised a material influence upon various sections of the Local Funds Bill in which a considerable latitude has been given to the Govt, but it has also been of essential service in securing the unanimity of the Council in passing the measures which have been submitted to the Viceroy for sanction.

5. But while there is a complete concurrence of opinion as to the importance of the Concession made by the Govt of India, very considerable difficulty has been felt in giving effect to the intention expressed in para 19 of the Resolution of the Govt of India. The financial exposition to be made before the Local

complete is too strong - to be in debt very sensible [illegible] a very

† which appears to be wrong in the passage of the recent Resolution above referred

N N

Local Legislative Council is to be analogous to that annually made in the Legislative Council of the Governor General. The course of procedure in the Council of the Governor General is, that when the Annual Statement is made by the Financial Member of the Govt of India, it is preceded by a Motion to bring in a Bill dealing with some one of the financial subjects which are about to be brought under their consideration; and this course prevents any departure from the provisions of Section 19 of the Indian Councils Act, under which the local legislatures are debarred from discussing any matter which is not connected with a project of law immediately before them. Such a course presents no difficulty in the case of the Govt of India, which has to deal with the whole of the finances

finances of India, inclusive of the whole subject of the Customs duties.

6. The position of the Local Legislatures is, however, very different; the matters of (Councils
legislation with which these have to deal are much more limited: and it is not desirable, even if it were possible, that, as a cover for the discussion of the Provincial Budgets, an annual measure affecting the financial administration should be presented to the Local Councils.

+ 7. A solution of this difficulty has been suggested for meeting the difficulty felt in giving legal effect to the Resolution of the Govt of India, excepting the annual discussion of the Annual Budget, which is, that the Budget should form a Schedule to an Appropriation Bill, the contents of which would, after all the necessary explanation and discussion, be voted Section by Section. This would be somewhat similar to the course adopted in Ceylon, where an Ordinance for making provision for the "Contingent Services" of each year is brought before the Legislative Council and passed by them, and

8. I am to state that the Government have considered that it would be undesirable, while there was any uncertainty as to the manner in which this technical difficulty is to be overcome, to hamper the action or decision of the Govt of India, by making any provision in the Local Funds Bill for the submission of the Budgets to the Legislative Council, and in this view the Local Legislative Council have

+ It will be seen from the discussion of the 17th and 23rd January last

+ Since it is understood that the arrangement works well.

(Legl)

have unanimously concurred, with an entire confidence that this important question will receive the early consideration of the Govt of India.

7. I am, in conclusion, to observe that the Madras Government entertains no apprehension that the submission of the Provincial Budgets to the Local Legislative Councils will be attended with any practical inconvenience in the administration of the Country. The discussion will not involve a vote of public money. It will be directed to the allotment of funds already provided by the Provincial Service grants and by money raised by local taxation; & while the Government in no degree anticipates any factious opposition in the Legislature

Govt in Council

this Govt &c &c Govt in Council"

I would omit this
N. B/S

the discussion will have reference to the

Govt. in Council

55 5

Legislative Council to the proposals of the Govt which will be set forth each year in their Annual financial exposition, it has not lost sight of the fact that by the Constitution of the Legislative Councils there is always likely to be a majority of official persons in the Council. —

BL

Copies of the minutes which have been recorded on this subject by the several Members of the Government are annexed.

BL

Submission of Provincial Budget & Local Legislative Council

Submitting the views of [illegible] to the Provincial Budget & Local Legislative Council

1871.

Financial DEPARTMENT.

From

*The Chief Secretary to Government,*
*Fort Saint George,*

To

*The Secretary to the Govt. of India,*
*Department.*

Dated April. 18. 1871.

Rec'd.

No. 147.
Enclosure.

Nos. 16:19.

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