

THE MUNICIPAL IMPROVEMENTS' (N. W. P.) ACT.

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ACT No. VI OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 20th March 1868.)

An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes.

WHEREAS it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces of the Presidency of Fort William, and for the police, conservancy and local improvements, and for education and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

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| Short title. | 1. This Act may be called "The Municipal Improvements' (North-Western Provinces) Act, 1868." |
| [Interpretation-clause.] | 2. In this Act, unless there be something repugnant in the subject or context— |
| "Committee." | "Committee" means a Municipal Committee appointed under the provisions of this Act; |
| "Municipality." | "Municipality" means any town or towns to which this Act may be extended; |
| "Lieutenant Governor." | "Lieutenant Governor" means the Lieutenant Governor of the said Provinces. |
| Power to extend Act. | 3. The Lieutenant Governor may extend this Act, by notification in the local official Gazette, to any town or towns in the territories under his government. |

4. For

4. For the purposes of this Act, the Lieutenant Governor may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any Railway station, village, building or land in the vicinity :

Provided that no cantonment shall, without the previous consent of the Governor General of India in Council, be deemed to be a town for the purposes of this Act.

The Lieutenant Governor may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

5. All Municipal Committees hitherto appointed under the orders of the Lieutenant Governor shall be deemed Committees under this Act, and shall continue in office until a Committee shall have been appointed or elected under section six.

Act No. XXVI of 1850 (*to enable improvements to be made in towns*) shall cease to have effect in the towns into which it has been introduced, except as to any act done or liability incurred under it :

Provided that all rules made and taxes imposed under Act No. XXVI of 1850, which have been approved by the Lieutenant Governor, shall continue in force and recoverable as if they had been made and imposed under the provisions of this Act.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

6. In any municipality to which this Act shall have been extended, the Lieutenant Governor may appoint or direct to be appointed by election, for such period not exceeding two years as to him may seem fit, any number of the inhabitants of such municipality, to be members of a Committee for carrying out the purposes of the Act.

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The persons so appointed shall continue in office for two years or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases when the Lieutenant Governor directs the appointment to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

The Lieutenant Governor may from time to time remove any of the members of the Committee so appointed who shall desire to be discharged or refuse or become incapable to act, or be convicted of an offence punishable under the Indian Penal Code with imprisonment for a term of not less than six months. The Lieutenant Governor may also, if he think fit, on the recommendation of the Committee, add to their number, and fill up vacancies occurring among them.

Every member so appointed shall have the same powers and be subject to the same liabilities and vacate his office and be eligible for re-appointment as if he had been originally appointed a member under the first clause of this section.

In addition to the members appointed as aforesaid, the Lieutenant Governor shall have power to appoint, by notification in the official Gazette, *ex officio* members of the Committee for every place in which they exercise their offices and to which this Act shall have been extended :

Provided that the number of such *ex officio* members shall not be more than one-third of the total number of the Committee.

7. The Lieutenant Governor may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

The Committee may appoint any one of their members or any other person to be their secretary.

All appointments made under this section shall be notified in the local official Gazette.

PART III.

PART III.

OFFICE AND MEETINGS OF COMMITTEES.

Committee to have
an office. 8. The Committee shall have an office, where they
shall meet for the transaction of business at least once in
every month.

Chairman at meet-
ings. 9. The president, or in his absence the vice-president, shall take the
chair at every meeting of the Committee. In the absence
of both the president and vice-president, the members pre-
sent may elect a chairman for the occasion.

The meetings shall be either general or special.

The president or vice-president may whenever he thinks fit, and he shall,
upon a requisition made in writing by not less than one-fifth in number of the
members, convene a meeting.

Notice shall be given of every such meeting, and when the meeting is to be
special, at least three days' notice thereof shall be given. Every notice shall state
the general nature of the business to be transacted at the meeting proposed to
be called.

Quorum. The quorum necessary for the transaction of business
at a general meeting shall be three.

The quorum necessary for the transaction of business at a special meeting
shall be one-half of the total number of members at the time of the meeting;
and at least two-thirds of such quorum shall consist of non-official members.

Dissolution. If within one hour from the time appointed for the meeting a quorum
is not present, the meeting, if summoned by the president
or vice-president, shall be dissolved.

Adjournment. In any other case it shall stand adjourned to the same day in the next
week at the same time and place. And if at such adjourned
meeting a quorum is not present, it shall be adjourned *sine*
die.

All business may be transacted at a general meeting which this Act does
not require to be transacted at a special meeting.

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All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a casting vote.

Voting.
Casting vote.

Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper, or in such other manner as the Lieutenant Governor may from time to time direct.

Publication of proceedings.

10. All correspondence between the Committee and the Local Government shall pass through the Commissioner of the Division.

Correspondence between Committee and Local Government.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit ; and the Committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

PART IV.

POWERS OF COMMITTEES.

11. The Committee may at a special meeting define the persons or property within the municipality to be taxed for the purposes of this Act and the amount or rate of the taxes to be imposed.

Power to make assessments and levy taxes.

If such taxes receive the sanction of the Lieutenant Governor, but not otherwise, the Committee may at a special meeting impose them accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Such taxes may be all or any of the following :—

(1).—A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value :

(2).—A tax on professions and trades :

(3).—Taxes

(3).—Taxes on carriages, horses, mules, elephants, camels, bullocks and asses :

(4).—Tolls on carriages, carts and animals entering the limits of the municipality :

(5).—An octroi on articles brought within the said limits for consumption or use therein : Provided that a list of such articles shall have been submitted to and approved by the Lieutenant Governor : Provided also, that the Lieutenant Governor shall have power to exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

No other species of tax shall be imposed without the previous sanction of the Governor General of India in Council.

12. No tax shall be collected until it shall have been confirmed by such persons and in such manner as the Lieutenant Governor shall appoint.

Taxes to be confirmed.

The Lieutenant Governor may from time to time make rules as to the persons by whom and the manner in which any assessment of taxes under this Act shall be confirmed and for the collection of such taxes.

Rules for confirmation and collection of taxes.

The Lieutenant Governor may from time to time repeal, alter or add to such rules.

13. No rate on property made under this Act shall be invalid for defect of form, and it shall be enough, in any such rate on property or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

No rate invalid for defect of form.

Rules and Bye-laws.

14. Every Committee may at a special meeting make rules consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the restricting of the amount or objects of expenditure under section twenty-four, the division of duties among the

Power of Committees to make rules.

the members of the Committee, the salaries, appointment, suspension and removal of the officers and servants of the Committee, and other similar matters.

15. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the rules and bye-laws made under the provisions of this Act for the protection of the public health, or they may appoint a special officer for such purposes.

Enforcement of rules and regulations.

16. The Committee may at a special meeting make bye-laws for defining, prohibiting and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act No. V of 1861 (*for the regulation of Police*), and for the securing of a proper registration of births, marriages and deaths, and for carrying out all or any of the purposes of this Act.

Power to make bye-laws as to nuisances, and registration of births, marriages and deaths.

The Committee may from time to time at a special meeting repeal, alter or add to such bye-laws.

17. No bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until it shall have been confirmed by the Lieutenant Governor.

Confirmation of bye-laws.

All bye-laws made under this Act and all rules made under section fourteen, and all alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Lieutenant Governor shall from time to time direct.

Publication of bye-laws.

Nuisances.

18. Every Committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance. Every such injunction shall be deemed to have been made by a public servant.

Power to prohibit repetition or continuance of nuisances.

19. Every Committee which the Lieutenant Governor shall authorize in this behalf may, so long as such authorization continues, exercise the powers of a Magistrate of a District as described in section 308 of the Code of Criminal Procedure for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in chapter XX of the same Code.

Power to remove nuisances.

20. Any

Purchase and Sale of Land.

20. Any Committee may at a special meeting, and with the previous sanction of the Lieutenant Governor, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee.

Power to buy and sell land for purposes of Act.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the persons paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof, and the proceeds of any such sale shall be applied for the purposes of this Act.

Receipts.

Controlling Power of Lieutenant Governor.

Cancellation and suspension of proceedings of Committee.

21. The Lieutenant Governor may by order cancel, suspend or limit any of the acts, proceedings or rules of any Committee.

The Lieutenant Governor may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of monies paid in respect of such tax.

Abolition of taxes.

PART V.

RIGHTS, DUTIES AND LIABILITIES OF COMMITTEES.

Municipal Fund.

22. All sums received by the Committee of any municipality to which this Act extends, and all fines levied under this Act, and all receipts from property entrusted to and managed by the Committee, shall constitute a fund which shall be called the Municipal Fund of such municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Municipal fund.

23. The

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23. The funds of every Committee shall be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government Treasury business shall have been made over.

Custody and disbursement of Municipal Fund.

No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the Committee.

24. Every Committee, subject to such rules restricting the amount or the objects of expenditure as it shall make at a special meeting, and so far as the Municipal Fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned, keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed, clean and in repair,

Duties of Committees.

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and generally may do all acts and things necessary for the purposes of conservancy, and local improvement.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools, or otherwise, for the promotion of education in the municipality for which such Committee is appointed.

Every contract made on behalf of any Committee in respect of any sum exceeding rupees twenty, or in respect of any property exceeding rupees twenty in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the Committee, of whom one shall be an *ex officio* member. Unless so executed, it shall not be binding on the Committee.

Contracts.

Municipal Police.

25. Every Committee shall provide in the first place from its funds for the maintenance of the police establishment in the municipality.

Provision for police.

The

The municipal police shall be appointed under such Act of the Governor General in Council as may be applicable to the town, and their number shall be fixed by the Committee in consultation with the Inspector General of Police, subject to the final decision of the Lieutenant Governor.

26. Every officer of police in any municipality to which this Act shall have been extended shall have power to take into custody without a warrant any person who, within his view, commits any of the offences mentioned in section 34 of Act No. V of 1861 (*for the regulation of Police*), and shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances defined to be such by any bye-law made under this Act.

Police to aid in carrying out orders regarding nuisances.

Annual Reports.

27. Every Committee shall annually, or oftener if directed by the Lieutenant Governor to do so, submit statements of their receipts on account of and disbursements from the Municipal Fund, and also reports of all works executed or proceedings taken by them under the authority of this Act.

Annual reports and statements to be submitted.

The Committee shall also submit, at such time and in such form as may be directed by the Lieutenant Governor, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Lieutenant Governor shall from time to time direct.

The Lieutenant Governor may from time to time make rules consistent with this Act, as to the cost and the class of works which the Committee may execute, and the Committee shall be legally bound to obey such rules.

Public Highways.

28. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Right of Committee in public highways.

29. When

Land required for Public Purposes.

29. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Lieutenant Governor, on the recommendation of the Committee, may notify in the local official Gazette that such land is required under the provisions of Act No. VI of 1857 (*for the acquisition of land for public purposes*), and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Land required for municipal purposes may be taken up under Act No. VI of 1857.

Suits by and against Committees.

30. Every Committee shall sue and be sued in the name of their president.

Suits by and against Committees.

No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Members not personally liable for contracts made by Committee.

Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which shall happen through or be facilitated by the neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant Governor shall direct as for money due to Government.

Liability of members for breach of trust.

31. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Notice previous to suing Committee or their officers.

Unless such notice be proved, the Court shall find for the defendant.

Every

Every such suit shall be commenced within three months next after the accrual of the cause of the suit and not afterwards.

If any person to whom any such notice of suit is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

PART VI.

PENALTIES AND PROSECUTIONS AND RECOVERY OF TAXES.

32. No member of a Committee or servant of a Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of rupees five hundred :

Penalty on member or servant of a Committee being interested in contracts made with Committee.

Provided always that no person shall be disqualified from acting as a member or servant of a Committee by being a shareholder in or member of any incorporated or registered Company by reason of any contract entered into between such Company and the Committee.

33. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding rupees fifty, and in the case of a continuing infringement, to a fine not exceeding rupees five, for every day after notice from the Committee of such infringement.

Penalty for infringement of bye-laws or non-payment of fines.

In default of payment of any fine imposed under this section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

34. Prosecutions under this Act for infringements of rules or bye-laws may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf.

Prosecutions.

35. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in section 61 of the Code of Criminal Procedure.

Recovery of taxes.