

PART XI

Bills introduced into the Legislative Assembly of Orissa, Reports of Select Committees presented or to be presented to that Assembly and Bills published before introduction in that Assembly

LAW DEPARTMENT

NOTIFICATIONS

The 21st June 1943

No. 12673—Legis.(C.)-11/43-L. (G).—The following Bill, which it is proposed to produce in the Orissa Legislative Assembly, is hereby published under rule 70 of the Orissa Legislative Assembly Rules, 1937, for general information :—

**THE ORISSA LOCAL FUND AUDIT  
BILL, 1943**

**A  
BILL**

TO CONSOLIDATE AND UNIFY THE LAW RELATING TO THE AUDIT OF LOCAL FUNDS IN ORISSA, AND TO PROVIDE FOR A UNIFORM PROCEDURE FOR THE AUDIT OF LOCAL FUNDS THEREIN.

Preamble.

WHEREAS it is expedient that the law as to the audit of local funds should as far as possible be the same throughout the Province of Orissa;

AND WHEREAS it is expedient to consolidate and unify the law relating to the audit of local funds in Orissa, and to provide for a uniform procedure for the audit of local funds therein;

It is hereby enacted as follows :—

1. (1) This Act may be called the Orissa Local Fund Audit Act, 1943.

(2) It extends to the whole of the Province of Orissa.

(3) It shall come into force on such date as the Provincial Government may by notification in the *Orissa Gazette* appoint.

Short title, extent and commencement.

## Definitions.

2. In this Act, unless there be anything repugnant in the subject or context;—

- (a) "auditor" means an auditor appointed under this Act;
- (b) "Examiner of Local Accounts" includes any person for the time being performing the duties of the Examiner of Local Accounts; and
- (c) "local fund" means any fund not being a Cantonment fund to the control or management of which a local authority is legally entitled, and any cess, rate, duty, or tax which such authority is legally entitled to impose, and any property vested in such authority.

Liability of local authority to submit its accounts to audit.

3. Notwithstanding anything contained in any enactment by which a local authority is constituted, the accounts of any local authority whose accounts are declared by the Provincial Government by notification to be subject to audit under this Act shall be subject to audit in all respects in the manner provided by or under this Act, and any provision in any such enactment inconsistent with or repugnant to the provisions of this Act or of any rule made thereunder shall, to the extent of such inconsistency or repugnance, be deemed to have been repealed by this Act.

Appointment of auditors.

4. The Provincial Government may by notification appoint auditors of local funds.

Auditor to be public servant.

5. An auditor shall, for the purposes of the powers and duties conferred and imposed on him by or under this Act, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code of 1860.

Power of auditor to require production of documents and attendance of persons concerned, etc.

6. For the purpose of any audit an auditor may—

- (a) by summons in writing or by letter require the production before him of any document which he may deem necessary for the proper conduct of the audit;

(b) by summons in writing require any whole-time paid servant of the local authority accountable for, or having the custody or control of, any such document to appear in person before him at any such audit; and

(c) require any such person to make and sign a declaration with respect to such document or to answer any question, or prepare and submit any statement relating thereto.

Penalty for disobeying direction of auditor.

7. Any person who wilfully neglects, or refuses to comply with any direction of the auditor under section 6 shall be liable on conviction before a Magistrate to a fine not exceeding one hundred rupees:

Provided that no proceedings under this section shall be instituted except on the written sanction of the Examiner of Local Accounts.

Audit report.

8. As soon as possible after the completion of the audit the auditor shall prepare a report on the accounts audited and examined and shall deliver such report to the Examiner of Local Accounts, who shall forward a copy thereof to the local authority concerned.

Power of Examiner of Local Accounts to surcharge or charge illegal payment or loss incurred by negligence.

9. (1) The auditor shall include in his report a statement of—

- (a) every payment which appears to him to be contrary to law,
- (b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person, and
- (c) the amount of any sum which ought to have been but is not brought into account by any person.

(2) After considering such report the Examiner of Local Accounts may—

- (a) order that any payment referred to in clause (a) of sub-section (1) shall be allowed or that no further action shall be taken as

regards any amount referred to in clause (b) or clause (c) of the said sub-section. or

- (b) serve a notice on the person making or authorising any such payment or the person responsible for or failing to account for such amount, requiring him to show cause within one month why such payment should not be surcharged or such amount should not be charged against him.

(3) After considering such cause as may be shown by any such person the Examiner of Local Accounts may surcharge such payment on the person making or authorising such payment or charge the amount of any loss or deficiency against the person responsible therefor or any amount which ought to have been but is not brought into account against the person failing to account for such amount and shall in every such case certify the amount due from such person.

Recovery of  
surcharges and  
charges.

10. (1) Any amount certified under section 9 as due from any person shall, if not paid by such person within one month next after the date of the certification thereof, be recoverable from him as a public demand under the provisions of the Bihar and Orissa Public Demands Recovery Act, 1914, or, in any area in which the said Act is not in force, as an arrear of land revenue under the provisions of the law in force in such area for the recovery of arrears of land revenue.

(2) The Collector shall, for the purposes of section 5 of the Bihar and Orissa Public Demands Recovery Act, 1914, be deemed to be the person to whom such public demand is payable.

B. & O. Act  
IV of 1914.

(3) The Collector shall pay all certified amounts received by him to the local authority concerned.

Appeal from order  
of surcharge or  
charge.

11. (1) Any person aggrieved by any surcharge or charge made may appeal to such authority as the Provincial Government may appoint in this behalf to set

aside such surcharge or charge, and the authority so appointed after making such inquiries as it considers necessary may pass such orders as it thinks fit.

(2) Pending the disposal of such appeal all proceedings on the certificate shall be stayed.

Payment of expenses incurred in civil suit.

12. (1) All expenses incurred by the Collector in any suit brought in a civil court under section 43 of the Bihar and Orissa Public Demands Recovery Act, 1914, in connection with any certificate duly filed under that Act on his requisition, or under section 59 of the Madras Revenue Recovery Act, 1864, or section 114 of the Central Provinces Land Revenue Act, 1881, or section 155 of the Central Provinces Land Revenue Act, 1917, in connection with the recovery of any amount as an arrear of canal revenue, shall in the first instance be borne by the Provincial Government.

B. & O. Act IV of 1914.

Madras Act II of 1864.

XVIII of 1881.

C. P. Act II of 1917.

(2) The Provincial Government may recover from the local authority concerned such amount as may be decreed as costs in favour of the local authority and any amount so recoverable shall be paid to the Provincial Government by such local authority.

Chargos in respect of audit to be payable out of local fund.

13. All expenses incurred by a local authority in complying with any requisition of the auditor under clause (b) of section 6 shall be payable out of its local fund.

14. The Provincial Government may after previous publication make rules as to all or any of the following matters, namely:—

- (i) the manner in which a local authority shall keep accounts in cases in which no such provision or, in the opinion of the Provincial Government, insufficient provision is made by the enactment under which such authority is constituted ;

- (ii) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times and places at which such audit may be conducted ;
- (iii) for the recovery by the Provincial Government from a local authority of expenses incurred by the Collector under section 10 or the Provincial Government under section 12 ; and
- (iv) the powers and duties of the Examiner of Local Accounts.

15. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

#### SCHEDULE

(See section 15)

ENACTMENTS REPEALED			
Year 1	Number 2	Short title 3	Extent of repeal 4
1925	II	The Bihar and Orissa Local Fund Audit Act, 1925.	The whole.
1936	I	The Orissa Laws Regulation, 1936.	The following entry in Part II of the Fourth Schedule, namely :— " 1925 II The Bihar and The areas transferred to Orissa Orissa Local Fund Audit from the Central Provinces."

#### STATEMENT OF OBJECTS AND REASONS

The object of the Orissa Local Fund Audit Bill is to bring about a uniform procedure of audit throughout the Province of Orissa. At present the audit of the local fund accounts in the old Orissa Division transferred from the late Province of Bihar and Orissa is conducted in accordance with the provisions of the Bihar and Orissa Local Fund Audit Act, 1925 (Bihar and Orissa Act II of 1925) and the rules made thereunder. In the areas transferred from Madras the audit procedure is governed in Municipalities by rules provided in Schedule IV of the Madras District Municipalities Act, 1920 (Madras Act V of 1920) and those framed under subsection (1) of section 303 of that Act and in District Boards by rules made under subsection (2) of section 199 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920). The Bihar and Orissa Local Fund Audit Act, 1925, was made applicable to the ex-Central Provinces areas of the province by amendments made in the Orissa Laws Regulation, 1936 (Orissa Regulation I of 1936).

The question of unification of the different audit procedures prevailing in the different parts of this province has been under consideration of Government for a fairly long time. Prior to the separation of the province the Legislative Department of the late Government of Bihar and Orissa had examined the question which was, however, ultimately left to the new province to decide. In 1936 the Comptroller suggested that the diverse audit procedures in vogue in different parts of the province should be assimilated and the Bihar system of local fund audit introduced throughout. The Auditor-General also held the same view. In 1937 the Government authorised the Comptroller to introduce a uniform system of local audit in the

whole province and since, in the ex-Madras areas, the law of audit was different, a Bill to extend the Bihar and Orissa Local Fund Audit Act, 1925, to South Orissa was decided to be introduced in the Provincial Assembly. The late Ministry approved the Bill which was also published under rule 70 of the Orissa Legislative Assembly Rulos. The Bill could not, however, be actually introduced in the Assembly as in the meantime it was found on re-examination of the question that the proposed extension to South Orissa would not enable the audit procedure to be extended to the partially-excluded areas of the province. After careful consideration Government decided to have a consolidated Bill which could be applied to the entire province including partially-excluded areas by means of a notification under sub-section (1) of section 92 of the Government of India Act, 1935. In formulating proposals for the unified Bill the Bihar and Orissa Local Fund Audit Act, 1925, has been adopted as the basis with such modifications as are considered necessary to involve a uniform system consistent with the diverse laws prevailing in the different parts of the province. There are no grave principles involved in the proposed legislation and from the audit point of view a uniform law is a great desideratum and the earlier it is secured the better.

CUTTACK : 16th June 1943

K. C. GAJAPATI  
Member in charge

By order of the Governor  
W. W. DALZIEL  
Secretary to Government

The 22nd June 1943

**No. 1112-L.A.**—The following Report of the Select Committee on the Bihar and Orissa Municipal (Orissa Amendment) Bill, 1942 together with the Bill, as amended by that Committee, is hereby published for general information :—

**REPORT OF THE SELECT COMMITTEE ON THE BIHAR AND ORISSA MUNICIPAL (ORISSA AMENDMENT) BILL, 1942**

We, the undersigned members of the Select Committee to which the Bihar and Orissa Municipal (Orissa Amendment) Bill, 1942, was referred, have the honour to submit this our Report with a copy of the Bill, as amended by us, annexed.

The Select Committee to which the Bihar and Orissa Municipal (Orissa Amendment) Bill, 1942, was referred consisted of seven members, namely :—(1) The Hon'ble Captain Maharaja Sri Sri Sri Krushna Chandra Gajapati Narayan Deo, (2) The Hon'ble Pandit Godavaris Misra, (3) Sri Brajasundar Das, (4) Sri B. N. Samanthroy, (5) Sri Jadumani Mangaraj, (6) Sri Biswanath Bohora, and (7) Sri Birakishore Behera. The Committee held its meeting on the 16th June 1943. All the members, except Sri B. N. Samanthroy, attended the meeting. Sri Jadumani Mangaraj, who was nominated Chairman of the Committee by the Hon'ble the Speaker, presided at the meeting.

We carefully considered the opinions received on the Bill and examined the Bill clause by clause. We approved the Bill subject to the alterations stated and explained in the following notes :—

*Clause 1*—The figures 1942 have been changed into 1943. This change is merely consequential brought about by the efflux of time.

*Clauses 2, 3 and 4*—Sometimes it so happens that the entire holding is not utilised as a Dharmasala ; but only a part of the holding is so utilised. It is, therefore, necessary that such part only of the holding should be exempted from the tax in cases where a part of any holding is so used. With a view to give effect to this our recommendation we have made necessary alterations in the clauses.

The Bill was published in the *Orissa Gazette* on the 27th November 1942 and we do not consider its republication necessary.

We recommend that the Bill, as amended by us, be passed.

J. M. MANGARAJ  
BRAJASUNDAR DAS  
K. C. G. NARAYAN DEO  
BIRAKISHORE BEHERA  
BISWANATH BEHERA  
GODAVARIS MISRA

**THE BIHAR AND ORISSA MUNICIPAL  
(ORISSA AMENDMENT) BILL, 1942**

*(As amended by the Select Committee)*

NOTE—Matter omitted is shown in italics within square brackets. New matter is underlined.

**A**

**BILL**

TO AMEND THE BIHAR AND ORISSA  
MUNICIPAL ACT, 1922

Preamble

**W**HEREAS it is expedient to amend the Bihar and Orissa Municipal Act, 1922, in its application to the Province of Orissa, in the manner hereinafter appearing; B. & O. Act VII of 1922

It is hereby enacted as follows:—

Short title

1. This Act may be called the Bihar and Orissa Municipal (Orissa Amendment) Act, [1942] 1943.

Amendment of section 85 of Bihar and Orissa Act VII of 1922

2. In section 85 of the Bihar and Orissa Municipal Act, 1922 (hereinafter referred to as the said Act), after clause (e) of sub-section (1), the following clause shall be added, namely:— B. & O. Act VII of 1922

“(f) that the tax shall not be imposed on any holding or part of a holding used exclusively as a Dharmasala where pilgrims, as defined in section 2 of the Bihar and Orissa Places of Pilgrimage Act, 1920, are allowed accommodation for limited periods free of charges of any kind.” B. & O. Act II of 1920

Amendment of section 86 of Bihar and Orissa Act VII of 1922

3. In section 86 of the said Act—

(i) in clause (b) after the word “any” the words “Dharmasala other than a Dharmasala where pilgrims, as defined in section 2 of the Bihar and Orissa Places of Pilgrimage Act, 1920, are allowed accommodation for limited periods free of charges of any kind,” shall be inserted; and B. & O. Act II of 1920



(ii) after clause (e) the following clause shall be added, namely:—

“(f) that the tax shall not be imposed on any holding or part of a holding used exclusively as a Dharmasala where pilgrims, as defined in section 2 of the Bihar and Orissa Places of Pilgrimage Act, 1920, are allowed accommodation for limited periods free of charges of any kind.”

B. & O. Act  
II of 1920

Amendment of  
section 86-A of  
Bihar and Orissa  
Act VII of 1922.

4. In section 86-A of the said Act, after clause (e) of sub-section (1) the following clause shall be added, namely:—

“(f) that the tax shall not be imposed on any holding or part

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of a holding used exclusively as a Dharmasala where pilgrims, as defined in section 2 of the Bihar and Orissa Places of Pilgrimage Act, 1920, are allowed accommodation for limited periods free of charges of any kind." B. & O. Act  
II of 1920

W. W. DALZIEL

*Secretary, Orissa Legislative Assembly*

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