

GOVERNMENT OF INDIA.

DECENTRALIZATION COMMITTEE

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FOR THE

ROYAL COMMISSION

ON

DECENTRALIZATION.

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MEMORANDUM ON THE CUSTOMS  
DEPARTMENT



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## Memorandum on the Customs department.

### *Early legislation regarding Customs.*

53 Geo III, c. 155.

54 Geo. III, c. 105.

It is not possible to say when the East India Company first began to impose customs duties on the importation and exportation of goods into or from its territories. The earliest Indian legislation on the subject is contained in Bengal Regulation XLII of 1793 regarding the Collector of Customs. The earliest Regulation on the subject in Bombay dates from 1799,\* and in Madras from 1803. In 1813, certain doubts having risen as to the power of the Indian Government to impose customs duties, the Charter Act, passed in that year, expressly legalized the imposition of customs duties in the three Presidency towns, while an Act, passed by the Imperial Parliament in the following year, declared the validity of all regulations already made by the Indian Governments regarding the levy of Customs duties and other taxes in the Presidency towns and elsewhere.

The first enactments were followed by a very large number of regulations made by the Governments of the three Presidencies, and (after 1833) by a number of Acts of Governor General of India in Council. These regulations and Acts dealt with the imposition of particular Customs duties, and with the functions of Customs officers at various places. It was not until 1863 that the first general Customs Act was passed, by which the former legislation was amended and consolidated. This Act was subsequently amended on five occasions, but eventually in 1878 it was superseded by the Sea Customs Act, VIII of 1878, which, with a few subsequent amendments, is still in force.

In Madras and Bombay, Land Customs lines are maintained round certain foreign European settlements and Native States, and their administration is regulated by the Madras Land Customs Act VI of 1844 and the Bombay Land Customs Act XIX of 1857, which, with subsequent amendments, are still in force.

### *The Sea Customs Act.*

2. Act VIII of 1878 deals with the appointment and powers of Customs officers, the appointment of ports, wharves, custom-houses, and boarding and landing stations, the levy of, and exemption from, customs duties and the payment of drawback, the

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\* Yet the Governor and Council at Bombay were not formally empowered to make regulations till 1807!

arrival and departure of vessels and their treatment while in port, the discharge of cargo and the entry inwards, warehousing, transshipment, and exportation of goods. It lays down special rules as regards spirit, regulates the coasting trade, defines the offences against the Customs law and prescribes the penalties for such offences; and finally lays down the procedure to be followed in dealing with offences and the prosecution of appeals.

3. The actual collection of the Customs revenue is, at the most important ports, in the hands of Special Collectors of Customs, but at minor ports, where no custom-house has been established by the Local Government, the duties which the Act imposes on the Customs Collector and other officers of Customs, are discharged by the Collector of the district and the officers subordinate to him, unless the Local Government otherwise directs. The Act empowers the Local Government to appoint and dismiss all officers of Customs and to delegate its power to any officer so appointed. But recently an important change has been made, which has had the effect of transferring the appointment and control of the more important Customs officers to the Government of India.

*Customs officers.*

Section 8.

Section 6.

4. The Imperial Customs Service was created at the beginning of 1905. It includes the Collectors and Assistant Collectors of Customs at the six principal ports, *viz.*, Calcutta, Bombay, Madras, Rangoon, Karachi and Chittagong. Up to that time the Collectors at the first four ports had been civil servants appointed by the Provincial Governments, while the Assistant Collectors, and the Collectors at Karachi and Chittagong, were locally recruited for each port.

*The Imperial Customs Service.*

The reform of these arrangements was due to representations from the commercial community. It was urged that the best results could not be obtained by placing members of the Indian Civil Service, however able, at the head of a department for which they had no previous training, and it was further pointed out that the constant changes of officials, which were almost inseparable from working the Customs as a department of the Civil Service, were not only harassing to merchants generally, but were also prejudicial to trade. Collectors recruited from the Civil Service were inevitably dependent on their subordinates for a considerable length of time, while they were learning their work, and meanwhile the administration suffered. When they had learnt their work, they were frequently called away to other duties,

and new and inexperienced men were brought in in their place. The inevitable result of this system was a complete lack of uniformity in the practice of the Customs department at different ports.

The service, under the new scheme, includes a proportion of Indian Civilians, who will remain in the department for considerable periods, while the remainder are specially recruited in England. All the members of the service are liable to transfer from one port to another, and are appointed and posted by the Government of India. In order, however, to comply with the provisions of the law, when the Government of India has posted a member of the service to a particular Province, it rests with the Local Government to gazette him as a Customs officer of the port to which he is assigned.

*Powers vested in the Government of India by the Act.*

5. The only powers which the Sea Customs Act specifically reserves to the Government of India are :—

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| Section 3.    | (a) Power to declare that 'foreign' ports ( <i>e.g.</i> , in Native States) shall for certain purposes be treated as British customs ports. |
| Section 19.   | (b) Power to prohibit or restrict the importation and exportation of goods.   |
| Section 19-A. | (c) Power to make regulations respecting the detention and confiscation of goods the importation of which is prohibited.                    |
| Section 22.   | (d) Power to fix 'the tariff values' of goods for purposes of assessment to duty.   |
| Section 23.   | (e) Power to exempt goods generally from the whole or any part of the customs duty leviable.  |
| Section 23.   | (f) Sanction to the exemption of goods from duty in a special and exceptional case by the Local Government.                                 |
| Section 49.   | (g) Power to declare what goods shall be deemed to be 'easily identifiable' for the purpose of drawback of customs duty on re-exportation.  |
| Section 49.   | (h) Power to prohibit the payment of drawback on goods re-exported to a foreign port in India.  |
| Section 133.  | (i) Power to sanction rules made by the Local Government for the levy of transhipment fees.   |
| Section 134.  | (j) Power to prohibit, at any specified port, the transhipment of any specified class of goods.   |



The rates of customs duties are fixed by the Indian Tariff Act, VIII of 1894, and all functions connected with the fixing of such duties, rest exclusively with the Government of India.

6. The Government of India, however, also exercises, as in other branches of administration, a general control over all the proceedings of the Customs department, and when necessary issues directions to Local Governments as to the manner in which they should exercise the discretion vested in them by the law. This general control is rendered the more necessary in Customs matters by the fact that the Government of India is the only authority which can enforce a reasonable amount of uniformity at the different ports, and that Customs is a purely Imperial branch of the Revenue.

*General control of the Government of India.*

7. Nevertheless there are a large number of matters in which the Local Government has a free hand, and in which it is ordinarily uncontrolled. A Local Government may, for example, appoint ports, wharves and customs-houses and declare their limits. It may also make rules for the licensing of cargo boats in a port and may prescribe the fees to be paid, and again it may make rules to regulate the coasting trade. A complete enumeration of its powers would serve no useful purpose, and the above examples have been cited merely as typical instances of its powers.

*Powers of the Local Government.*

Section 11.

Section 79.

Section 157.

8. Under the Local Government the control of the Customs department is vested in a chief customs authority. In Madras, Bengal, and Eastern Bengal and Assam the Board of Revenue, in Burma the Financial Commissioner, and in Bombay the Commissioner of Separate Revenue and the Commissioner in Sind are chief customs authorities. The functions of the chief customs authority are those of control. It hears appeals from the decisions of Customs officers, and it is expressly vested with power to make rules, with the sanction of the Local Government, to regulate the powers and duties of officers of Customs, and generally to carry out the provisions of the Act.

*The Chief Customs Authority.*

G. RAINY,—2-11-07.