

Legislative (1895) Department.

ORDINARY PRINTED.

G.O., No 106

Dated 22nd Oct 1895

718

[Despatch Abstract.]

BILL TO AMEND ACT IV OF 1884 (THE MADRAS DISTRICT MUNICIPALITIES
ACT).

Communicating to the Legislative Council letter from M.R.Ry.
B. Krishna Rao, High Court Vakil, Salem, submitting his remarks
on the --.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Read the following paper from Mr. B. Krishna Rao, High Court Vakil, Salem, dated 15th October 1907.

REMARKS ON THE BILL TO AMEND THE DISTRICT MUNICIPALITIES ACT

No. IV of 1884.

The following remarks on the Bill to amend the District Municipalities Act are respectfully submitted for the consideration of the Honorable members of the Legislative Council.

Section 3, Clause 23.—The addition of the words “and members of an undivided family” at the end of the definition is necessary. The existing definition does not include members of an undivided family more remote than first cousins. The reason of the rule introduced in sections 10-A and 30 in view of which this definition is added in the Bill, applies with equal force to all members who live in commensality of food or estate or both. There are families in India which remain joint for three or four generations.

Section 9.—The repeal of this section is suggested, as it is unnecessary that the Revenue Officer in charge of the Division in which the Municipality is situated should *ex-officio* be a Councillor. The Revenue officer has distinct powers under the Act which he is called on to exercise irrespective of the views of the Municipal Council. The exercise of such powers is incompatible with his position as an ordinary Councillor. If this suggestion is adopted, the word “other” in section 10 para 1, the words “together with the *ex-officio* Municipal Councillor” in section 11 and the words “or Municipal Councillor” in section 19 line 4 will have to be omitted.

10-A.—A clause to the following effect may be added.

“Not have been disqualified under section 19, clause 2, or have been convicted under section 10-B of this Act.”

Sections 13 and 14.—The following rules for the appointment of Chairmen will tend to make Municipal Administration more efficient and add more dignity to Local Self-Government:—

- (1) All Chairmen should be elected by the Council.
- (2) All Municipalities realising a revenue of more than Rs. 30,000 should as a rule have *full-time* Chairmen who should be allowed fixed salaries.
- (3) It is not necessary that the selection of Chairmen should be made from amongst the members of the Council.
- (4) Chairmen should *ex-officio* be Councillors.
- (5) The appointment of Chairman should be subject to the veto of Government twice.

If the foregoing rules are accepted, clause (iii) of section 13 will have to be omitted; section 14 will run as follows:—the Municipal Councillors shall appoint as their Chairman any one best fitted for the office subject to the approval of the Governor in Council and in accordance with such rules and conditions as may from time to time be prescribed by the Governor in Council; on such appointment, the Chairman shall *ex-officio* be a Municipal Councillor of the Municipality and shall exercise all the powers of a Chairman under this Act. Section 17 will have to be modified by the substitution of the words ‘any person’ instead of the words ‘any Municipal Councillor’ in line 7 and by the omission of all the words following the expression ‘originally appointed’ in line 9.

Rules 2 and 5 suggested above should be incorporated in the rules framed by the Governor in Council under section 14.

Section 15.—This section may be modified by the insertion of the words “any person specially empowered by the Governor in Council or in the absence of any such special direction” between the words “vacant” and “the Revenue Officer” to make provision for the *interregnum* otherwise than by imposing the duties of Chairman on the heavily worked Revenue Officer.

In section 19, a proviso to the effect “that no Councillor or Chairman should be dismissed unless the information on which Government intends to act under this section is fully placed at the disposal of the Councillor or Chairman concerned and unless the Councillor or Chairman concerned and the Council are heard as to what they have to say against the information furnished to Government,” should be inserted on the principle that every man must be heard in his defence before he is condemned. Such a principle should form a statutory provision and should not be left merely to the discretion of the deciding authority.

Section 32.—As the section stands, it is not clear if the selection of the delegate Chairman requires the sanction of the Council. Probably it is the delegation that has to be sanctioned by the Council, the Councillor to be selected being left to the choice of the Chairman in office. It is not clear whether the Chairman delegate is bound to conform to the directions given or issued by the delegating authority. If he is not, the Chairman's responsibility which is not taken away may be a serious hardship to him. The following rules are suggested for incorporation in section 32.

- (1) The delegation should not be made for a longer period than 4 weeks at any one time or for a period longer than 3 months in a year.
- (2) The person selected should be approved of by the Council.
- (3) Where however the chairman is unable to get the sanction of the Council in time to meet his emergency, he must delegate the functions to an official Councillor who will exercise the powers of a Chairman till relieved.
- (4) The chairman delegate should not contravene the general and special directions issued by the Chairman except with the sanction of the Municipal Council.
- (5) The delegation shall not relieve the Chairman of the responsibility imposed upon him by the Act except in cases where the Chairman delegate contravenes the Chairman's express directions.
- (6) Where the Chairman does not resume the work within the period allowed to him, he shall be deemed to have vacated his office. He will, however, be eligible for re-appointment.

N. B.—The period of delegation has further to be restricted in the case of full-time salaried Chairmen, as they should be governed as to leave and allowances as other public servants.

Section 32, clause 2.—Add "as also a statement shewing the demand, collection and balance of taxes under all the heads". Such a statement can with advantage be compiled. It is useful information to the Councillors and will further operate as a check upon the Chairman against remissness in collections.

Section 36.—The addition of the words "with reasons in full for the exercise of such powers" at the end of the last clause is necessary. It is advisable to add that a copy of the letter should at the same time be sent to the Council.

Section 38.—While it is highly desirable to introduce the system of administration by Boards and Committees organized from among the Council, so that individual Councillors may have an actual share of the executive administration which alone, it is submitted, will tend to promote political education in the real sense, it is suggested that it is at all events absolutely necessary that an executive Board consisting of the Chairman and 2 Councillors elected by the council should be constituted to exercise control over the expenditure of Municipal funds. No doubt the Municipal Budget is passed by the Council; but the details of the expenditure provided in the Budget are arranged only by the Chairman. It is submitted that these further details should be arranged by an executive Committee. It is advisable to place the construction of new works and roads, repairs of existing works and roads, expenditure incurred in investigating water supply and drainage schemes, in short, the details of the expenditure under every item, under the control and supervision of a Committee. Experience has taught us that Government by one man, whether official or non-official, elected or nominated, does not further the cause of local self-Government as much as people may wish. The organization of a Committee like the one proposed may be useful for purposes contemplated in section 28 para 2, section 32 para 3, section 45, section 52 and section 280.

Section 45.—It is necessary to add a rule that no payments shall be made to contractors for work done in pursuance of any contract, unless the Committee proposed above or 2 Councillors certify that they have satisfied themselves from personal inspection and verification that the work has been executed in conformity with the contract. At present, no completion certificate is required and no proper supervision is provided for in the Act.

Section 58.—It is suggested that the expression "or of an undivided family" and the corresponding words at the end of the section may be omitted. If the names of the members of the family are not entered in the assessment books, it is not advisable to proceed against them on the ground that they are the undivided coparceners of a person taxed under the Act. Division or no division is a very complicated question, which the Municipality cannot be called on to decide. The Municipality will be landed into endless litigation, if it attempts under section 58 to collect taxes from persons not mentioned in the assessment books.

Section 63.—The land and house tax has been unnecessarily raised. A 10 percent of land and house tax, a 6½ percent of water and drainage tax, and a $\frac{400 \text{ or } 500}{100}$ per cent. of income-tax on persons liable to pay income-tax who are very numerous must operate as a great hardship on all owners of houses.

Section 63-A.—The reason given for introducing section 63-A is not very clear or at all events is not very conclusive. The only reason given by the select committee for assessing buildings sometimes by the area irrespective of their annual value is that "it will save a good

deal of trouble, if the Council can assess rows of houses in this way." It is submitted that the annual rental value of the houses can always be determined without any serious difficulty. It is inexpedient to sacrifice a sound principle of taxation for a fancied minimisation of work.

Section 66.—A month or two before the general revision of assessment contemplated in section 66, a general notice calling upon all owners and occupiers of lands and buildings in the Municipality to state their annual value within a period to be fixed by the Chairman may be published in the District Gazette. Such a requisition, if complied with, will tend to minimise the work of the assessing officer, and the necessity to file revision petitions against the assessment of the Chairman will be, to a great extent, obviated. This provision is similar to that contained in section 80 regarding taxes on vehicles.

Section 105.—The addition of the words "of the defaulter" after the word "property" is necessary. As the section stands, any man's property may be seized.

Section 106.—Clauses a and b of this section, para 2, are taken from clauses a and b of section 266 of the Civil Procedure Code. It is not known why the amendments of this section introduced by Act VII of 1888 should not be adopted in the Act. Under these amendments, the bedding of the defaulter, his wife and children and the seed grain of agriculturists are exempted from attachment.

There is no direction in the Act making proclamation for the sale of distrained property necessary. It is submitted that no property should be sold unless a proclamation stating the description of the property to be sold and the time and place at which it is to be sold is published in the town and that a sufficient interval, say 3 clear days, should elapse between the date of the proclamation and the date of the sale.

Section 280.—The omission of the words "or by the Chairman or by a person expressly authorised in this behalf by the Municipal Council or the Chairman" is suggested, as it is advisable that all prosecutions under the Act should be instituted by the Council. The words "or a Committee specially empowered in this behalf" may be added instead, if a smaller number is deemed necessary for prompt action. As the section stands, it may be thought that a Chairman can institute prosecutions irrespective of the views of the Council or even against its views.

Section 283.—It should be distinctly stated what sort of information is contemplated in this section. As the section stands, any man can be prosecuted for refusing to give any information. It is not known what sections of the Act are contemplated in this section. It is submitted that the other penal clauses introduced in the Act are sufficiently protective of public health and safety. This clause can conveniently be omitted.

Schedules A and B.—The enhancement of the rates of taxation proposed in the Bill is uncalled for.

The principle of classification may be retained. The description given in class (iii) may be adopted in the first and second classes also, and the taxable income in class (i) may be fixed at 3000 rupees. It is better that even with regard to trading companies referred to in classes 1, 2, 3, income is fixed as the criterion of taxation. Under the present classification, any joint stock company not coming under classes 1 and 2 is liable to pay 75 rupees which amount, it is submitted, is too much for joint stock companies embarked on small concerns. No reasons are given by the select committee as to why the principle of taxation with reference to income has been departed from with regard to trading companies alone.

15th October 1895.

B. KRISHNA RAO.

CURRENT No. 264

Salem
16 Oct 1895

UNDER SECRETARY
17 OCT 95
PUBLIC DEPT.

From B. Vishwanathan
High Court Vakil
Salem

To
The Secretary to Government
Legislative Dept.

Sir.
I have the honor to
send you 25 printed copies of
my memorandum of remarks
on the Bill to amend the
District Municipalities Act.
I respectfully request that you
will be pleased to circulate
them to the Honorable Members
of the Legislative Council.

I have the honor to
be
Your most obedient servant
B. Vishwanathan

-56/10/1895
Leg 1068 22/10/95

1895
Legislative Dept.
Encl. No. 1
To
C. No. 264

29-
CURRENT No. 264

GOVERNMENT OF MADRAS

LEGISLATIVE DEPARTMENT

From

B. Krishna Rao

High Court Vakil

Salem

CS

Q
J

To Secretary to Government
Legislative Dept.

Communicated to the
Legislative Council

Dated 18 Oct 1895

Recd. 2/8
Ryd

Encls: 1 of 24 S.C.

Subm. 11 copies of

memorandum on the

Bill to amend the

Dist. Municipalities

Act.

CRV

19/10

No. 106, LEGISLATIVE, 22ND OCTOBER 1895.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper :—

From M.R.Ry. B. KRISHNA RAO, High Court Vakil, Salem, to the Chief Secretary to Government, dated Salem, 16th October 1895.

I have the honour to send you twenty-five printed copies of my memorandum of remarks on the Bill to amend the District Municipalities Act. I respectfully request that you will be pleased to circulate them to the Hon'ble Members of the Legislative Council.

ENCLOSURE.

REMARKS on the Bill to amend the District Municipalities Act No. IV of 1884.

The following remarks on the Bill to amend the District Municipalities Act are respectfully submitted for the consideration of the Honourable Members of the Legislative Council :—

Section 3, Clause 23.—The addition of the words "and members of an undivided family" at the end of the definition is necessary. The existing definition does not include members of an undivided family more remote than first cousins. The reason of the rule introduced in sections 10-A and 30, in view of which this definition is added in the Bill, applies with equal force to all members who live in commensality of food or estate or both. There are families in India which remain joint for three or four generations.

Section 9.—The repeal of this section is suggested, as it is unnecessary that the Revenue officer in charge of the division in which the municipality is situated should *ex-officio* be a councillor. The Revenue officer has distinct powers under the Act which he is called on to exercise irrespective of the views of the municipal council. The exercise of such powers is incompatible with his position as an ordinary councillor. If this suggestion is adopted, the word "other" in section 10, paragraph 1, the words "together with the *ex-officio* municipal councillor" in section 11, and the words "or municipal councillor" in section 19, line 4, will have to be omitted.

10-A.—A clause to the following effect may be added :—

"Not have been disqualified under section 19, clause 2, or have been convicted under section 10-B of this Act."

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- (1) All Chairmen should be elected by the council.
- (2) All municipalities realising a revenue of more than Rs. 30,000 should, as a rule, have full-time Chairmen who should be allowed fixed salaries.
- (3) It is not necessary that the selection of Chairmen should be made from amongst the members of the council.
- (4) Chairmen should *ex-officio* be councillors.
- (5) The appointment of Chairman should be subject to the veto of Government twice.

If the foregoing rules are accepted, clause (iii) of section 13 will have to be omitted; section 14 will run as follows:—The municipal councillors shall appoint as nor in Council and in accordance with such rules and conditions as may from time to time be prescribed by the Governor in Council; on such appointment, the Chairman shall *ex-officio* be a municipal councillor of the municipality and shall exercise all the powers of a Chairman under this Act. Section 17 will have to be modified by the substitution of the words "any person" instead of the words "any Municipal Councillor" in line 7 and by the omission of all the words following the expression "originally appointed" in line 9.

Rules 2 and 5 suggested above should be incorporated in the rules framed by the Governor in Council under section 14.

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In section 19, a proviso to the effect "that no councillor or Chairman should be dismissed unless the information on which Government intends to act under this section is fully placed at the disposal of the councillor or Chairman concerned and unless the councillor or Chairman concerned and the council are heard as to what they have to say against the information furnished to Government," should be inserted on the principle that every man must be heard in his defence before he is condemned. Such a principle should form a statutory provision and should not be left merely to the discretion of the deciding authority.

Section 32.—As the section stands, it is not clear if the selection of the delegate Chairman requires the sanction of the council. Probably it is the delegation that has to be sanctioned by the council, the councillor to be selected being left to the choice of the Chairman in office. It is not clear whether the Chairman-delegate is bound to conform to the directions given or issued by the delegating authority. If he is not, the Chairman's responsibility which is not taken away may be a serious hardship to him. The following rules are suggested for incorporation in section 32:—

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- (5) The delegation shall not relieve the Chairman of the responsibility imposed upon him by the Act except in cases where the Chairman-delegate contravenes the Chairman's express directions.
- (6) Where the Chairman does not resume the work within the period allowed to him, he shall be deemed to have vacated his office. He will, however, be eligible for re-appointment.

N.B.—The period of delegation has further to be restricted in the case of full-time salaried Chairmen, as they should be governed as to leave and allowances as other public servants.

Section 32, Clause 2.—Add "as also a statement showing the demand, collection and balance of taxes under all the heads". Such a statement can with advantage be compiled. It is useful information to the councillors and will further operate as a check upon the Chairman against remissness in collections.

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Section 38.—While it is highly desirable to introduce the system of administration by boards and committees organized from among the council, so that individual councillors may have an actual share of the executive administration which alone, it is submitted, will tend to promote political education in the real sense, it is suggested that it is at all events absolutely necessary that an executive board consisting of the Chairman and two councillors elected by the council should be constituted to exercise control over the expenditure of Municipal funds. No doubt the municipal budget is passed by the council; but the details of the expenditure provided in the budget are arranged only by the Chairman. It is submitted that these further details should be arranged by an executive committee. It is advisable to place the construction of new works and roads, repairs of existing works and roads, expenditure incurred in investigating water-supply and drainage schemes, in short, the details of the expenditure under every item, under the control and supervision of a committee. Experience has taught us that Government by one man, whether official or non-official, elected or nominated, does not further the cause of local self-government as much as people may wish. The organization of a committee like the one proposed may be useful for purposes contemplated in section 28, paragraph 2, section 32, paragraph 3, section 45, section 52 and section 280.

Section 45.—It is necessary to add a rule that no payments shall be made to contractors for work done in pursuance of any contract, unless the committee proposed above or two councillors certify that they have satisfied themselves from personal inspection and verification that the work has been executed in conformity with the contract. At present, no completion certificate is required and no proper supervision is provided for in the Act.

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Section 63-A.—The reason given for introducing section 63-A is not very clear or at all events is not very conclusive. The only reason given by the Select Committee for assessing buildings sometimes by the area irrespective of their annual value is that "it will save a good deal of trouble if the council can assess rows of houses in this way." It is submitted that the annual rental value of the houses can always be determined without any serious difficulty. It is inexpedient to sacrifice a sound principle of taxation for a fancied minimisation of work.

Section 66.—A month or two before the general revision of assessment contemplated in section 66, a general notice calling upon all owners and occupiers of lands and buildings in the municipality to state their annual value within a period to be fixed by the Chairman may be published in the District Gazette. Such a requisition, if complied with, will tend to minimise the work of the assessing officer, and the necessity to file revision petitions against the assessment of the Chairman will be, to a great extent, obviated. This provision is similar to that contained in section 80 regarding taxes on vehicles.

Section 105.—The addition of the words "of the defaulter" after the word "property" is necessary. As the section stands, any man's property may be seized.

Section 106.—Clauses (a) and (b) of this section, paragraph 2, are taken from clauses (a) and (b) of section 266 of the Civil Procedure Code. It is not known why the amendments of this section introduced by Act VII of 1888 should not be adopted in the Act. Under these amendments, the bedding of the defaulter, his wife and children and the seed grain of agriculturists are exempted from attachment.

There is no direction in the Act making proclamation for the sale of distrained property necessary. It is submitted that no property should be sold unless a proclamation stating the description of the property to be sold and the time and place at which it is to be sold is published in the town and that a sufficient interval, say, three clear days, should elapse between the date of the proclamation and the date of the sale.

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The principle of classification may be retained. The description given in Class (iii) may be adopted in the first and second classes also, and the taxable income in Class (i) may be fixed at 3,000 rupees. It is better that even with regard to trading companies referred to in Classes 1, 2, 3, income is fixed as the criterion of taxation. Under the present classification, any joint stock company not coming under Classes 1 and 2 is liable to pay 75 rupees, which amount, it is submitted, is too much for joint stock companies embarked on small concerns. No reasons are given by the Select Committee as to why the principle of taxation with reference to income has been departed from with regard to trading companies alone.

15th October 1895.

B. KRISHNA RAO.

ORDER—No. 106, Legislative, dated 22nd October 1895.

Communicated to the Legislative Council.

(True Extract.)

(Signed) L. DAVIDSON
Ag. Under Secretary.

To the Hon'ble Members of the Legislative Council.

Exd. Shaik Karim.

Gobt. of {1895} Madras.
LEGISLATIVE.

Issued

Recd.

Encl.

G.O., No. 106, 22nd October 1895.

OCTOBER.

Bill to amend Act IV of 1884 (The
Madras District Municipalities
Act.)

Communicating to the Legislative Council letter
from M.R.Ry. B. Krishna Rao ~~Genl.~~ High Court
Vakil, Salem, submitting remarks on the —.

MINISTRY OF GOVERNMENT, MADRAS
1895.

5
FURTHER PAPER, No.

ENCLOSURES.

CURRENT No.

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ORDINARY, PRINTED.

Depre DEPARTMENT.
G.O. DATED 22. 10. 95
No. 106.

INDEXED.

First copy sent to Press.

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Despatched in print.

[Despatch Abstract.]

Will be amended act to effect
the transfer of Municipalities
act. Copy to the Deputy Commr
letter from Mr. R. R. Krishna
Rao, Secy. High Court, Madras
Salem, Subj. remarks
on the ———.

First copy sent to Press.

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Despatched in print.

READ AGAIN G.O. No.
139

DATED.

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DFTD.

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