

Legislative (1895) Department.

ORDINARY PRINTED.

G.O., No. 139

DATED 20th Dec. 1895

819

[Despatch Abstract.]

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

Communicating to the Legislative Council Proceedings, Local
and Municipal Department, informing the Chairman, Municipal Council,
Tirupattur, that the question of making clear the provisions of the
law as to the time for which licenses issued for building, &c., continue
in force, will be considered when Act IV of 1884 comes up for amendment.

BACK PAPERS.

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

FURTHER PAPERS.

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

500-6-11-85

Local and Municipal Department.



PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper :—

From the Chairman, Municipal Council, Tiruppattur, dated 3rd November 1895, Reference on NO.1349/Eng.

I have the honour to forward herewith a copy of the Council's resolution for approval and to state as follows:—

In granting licenses for building, rebuilding and repairing houses under section 180 or 171 of the District Municipalities Act IV of 1884, there is at present no provision to restrict the license holder to finish the work within a fixed time and the sections do not allow the Municipal Council to fix time of their own motion. This want leads to great inconvenience. A person takes out a license and keeps the work in abeyance for two or three years and then does the work under the license already granted some years back. Another person when having once obtained a license continues the work for number of years together and periodically deposits building materials in the street and causes obstruction and nuisance to the public under cover of the license.

The fixing of time in executing a certain work may for the reasons stated above appear to be very essential and the Municipal Council has already resolved to address Government in the matter.

I request you therefore to be so good as to obtain the sanction of Government to authorize the Council to make a bye-law to restrict the time within which the work should be completed.

I may also say that if necessary this question may be considered by Government in order to amend the section 180 accordingly before the new act is passed into law.

Enclosure

Enollosure

Extract from the Proceedings of the Tiruppattur Municipal Council dated 19"October 1895.

Present

x x x x

8. Read note dated 14-10-95 of the Municipal Manager requesting to frame a bye-law regarding the license granted to the people for building houses to have effect to certain period.
Resolution:- Approved. It shall be incumbent on every person preparing to take out a license under section 171 or 180 of the Municipal act IV of 1884 to state the time which the repair or the building is likely to take and it shall be incumbent on such person to complete such work within the time allowed by the Council.

O R D E R, NO. 2086 M. Mis., dated 12"December 1895.

The Chairman will be informed that when licenses for building are issued, a clause should be inserted in them specifying the time for which they continue in force. If this is done it will not be necessary for the council to frame a bye-law on the subject.

2. The question of making the provisions of the law clear on this point will be considered when Act IV of 1884 comes up for amendment.

(True Extract)

W. Phillips
Ag. Asstt. Secretary,
for Chief Secretary.

TO.

The Chairman, Municipal Council, Tiruppattur.

.. Legislative Department.

Gobt. of { 1895 } Madras.

Local and Municipal Department.

CURRENT NO 341

To

The Legislative Deptt.

Recd. 16/12/95

Proceedings, dated 12 December 1895,
No. 2086 M.

Subject.

Licenses

Informing the Chairman, Munc.
Council, Tiruppattur, with remark, that
when — for building are issued, a
clause should be inserted in them
specifying the time for which they con-
tinue in force & stating that the ques-
tion of making the provisions of the
law clear on this point will be consid-
ered when Act IV of 1884 comes up
for amendment.

Order No 139 of 20. 12. 95
Ps.

Communicated to the
Legislative Council.

To the Honble members of the Legre Council
L & M Dept.
28/12/95
Note with reference to para 2 of the L & M
G.O., may that Dept. be asked to draft
the necessary amendments.

No. 139, LEGISLATIVE, 20TH DECEMBER 1895.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

G.O., Mis. No. 2086 M., dated 12th December 1895.

Read—the following letter from the Chairman, Municipal Council, Tiruppattur, dated
3rd November 1895, Reference on No. 1349-Eng.:—

I have the honour to forward herewith a copy of the council's resolution for
approval and to state as follows:—

In granting licenses for building, rebuilding and repairing houses under section
180 or 171 of the District Municipalities Act, IV of 1884, there is at present no pro-
vision to restrict the license-holder to finish the work within a fixed time and the
sections do not allow the municipal council to fix time of their own motion. This
want leads to great inconvenience. A person takes out a license and keeps the work
in abeyance for two or three years and then does the work under the license already
granted some years back. Another person when having once obtained a license
continues the work for number of years together and periodically deposits building
materials in the street and causes obstruction and nuisance to the public under cover
of the license.

The fixing of time in executing a certain work may, for the reasons stated above,
appear to be very essential and the municipal council has already resolved to address
Government in the matter.

I request you therefore to be so good as to obtain the sanction of Government to
authorize the council to make a bye-law to restrict the time within which the work
should be completed.

I may also say that, if necessary, this question may be considered by Government
in order to amend the section 180 accordingly before the new Act is passed into law.

ENCLOSURE.

EXTRACT from the Proceedings of the Tiruppattur Municipal Council, dated 19th October 1895.

8. Read note, dated 14th October 1895, of the municipal manager, requesting to frame a
bye-law regarding the license granted to the people for building houses to have effect to certain
period.

Resolution.—Approved. It shall be incumbent on every person preparing to take out a license
under section 171 or 180 of the Municipal Act, IV of 1884, to state the time which the repair or
the building is likely to take, and it shall be incumbent on such person to complete such work
within the time allowed by the council.

Order—Mis. No. 2086 M., dated 12th December 1895.

The Chairman will be informed that when licenses for building are issued, a clause should be inserted in them specifying the time for which they continue in force. If this is done, it will not be necessary for the council to frame a bye-law on the subject.

2. The question of making the provisions of the law clear on this point will be considered when Act IV of 1884 comes up for amendment.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Chairman, Municipal Council, Tiruppattūr.
„ Legislative Department.

ORDER—No. 139, Legislative, dated 20th December 1895.

Communicated to the Legislative Council.

(True Extract.)

Chief Secretary.

To the Hon'ble Members of the Legislative Council.
„ Local and Municipal Department.

Gobt. of {1895} Madras
LEGISLATIVE.

Issued

Recd.

Encl.

G.O., No. 139, 20th December 1895.

DECEMBER.

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

Communicating to the Legislative Council Proceedings, Local and Municipal Department, informing the Chairman, Municipal Council, Tirupattūr, that the question of making clear the provisions of the law as to the time for which licenses issued for building, &c., continue in force will be considered when Act IV of 1884 comes up for amendment.

To

THE HONOURABLE THE COUNCIL OF THE GOVERNOR OF
FORT ST. GEORGE FOR MAKING LAWS AND REGULATIONS.

We, the undersigned members of the Select Committee, appointed at the meeting of the Council held on the 4th November 1895 to consider the Bill to make better provision for the registration of proprietors of land subject to the payment of land revenue direct to Government in Malabar and the Wynaad, have the honour to submit our report thereon to the Council.

We have held three meetings all of which were attended by the Honourable Messrs. Bliss, Grose and Gibson and the Honourable V. Bhashyam Aiyangar; the Honourable Mr. Spring Branson and the Honourable C. Sankaran Nayar were each absent from two meetings and the Honourable C. Vijayaraghava Chariar was absent from one.

We have considered a memorial from the Kerala Mahajana Sabha, Calicut, and have discussed the various amendments set out in the agenda paper for the Council meeting of the 4th instant.

The Bill which we were appointed to consider was published in the *Fort St. George Gazette* in English and Malayalam on the 15th of October 1895. We have not thought fit to give the direction referred to in Council rule 41 and the Bill as revised will therefore be published in those languages.

We now proceed to describe briefly the principal alterations which we have made in the Bill.

1. *Preamble*.—We have altered the preamble in such a manner as to bring it into closer harmony with the wording of section 2 of Regulation XXVI of 1802. We have also omitted the words "subject in cases of dispute to the ultimate decision of the Civil Courts" as being out of place in the preamble.

Section 2.—We have revised the definition of "estate" in view to prevent the application of the term to a congeries of separate pieces of land belonging to one and the same proprietor each of which is separately assessed and because we consider it preferable that the unit of consideration for the purposes of this Bill should be a plot of land bearing a separate assessment rather than a separate proprietor or a separate body of joint proprietors.

We have omitted the definition of "proprietor" as unnecessary and that of "manager" in view of the alteration made in section 3.

Section 3.—We have amended this section in such a manner as to permit any person having authority to make application on behalf of another for the registration of that other as proprietor or joint proprietor of an estate; this renders the second clause superfluous.

Section 6.—We have inserted in this section a clause requiring the Collector to notify in the District Gazette the date and place at which an enquiry will be held; it is desirable that parties interested should receive some intimation of these particulars.

The numbers of the first six sections of the original Bill have been allowed to stand unaltered, but sections 7—17 have been re-numbered and three new sections have been introduced in this part of the Bill. In the remaining portion of this report, we shall refer to the numbers assigned to the sections in the Bill as amended.

Section 7.—This section which is entirely new has been introduced in order to prevent the registers from being encumbered by the insertion of the names of all the members of a joint family in the case of estates which form its joint property. We consider that it will suffice in such cases to enter merely the names of the responsible managers, but in order to lessen the possibility of fraud we would require the Collector to register such responsible managers not merely by name but also in virtue of their capacity as such.

Section 8.—This section has been materially altered. As it originally stood, the Collector was not required either to hear any party to a dispute as to the entry to be made in the registers or to receive any evidence tendered by any such party. As we have amended it, he will be bound to hear any party who attends at the enquiry, to receive such evidence as he may see fit and to record the nature of the dispute, his decision thereon and the grounds of the decision. This alteration will secure that interested parties receive a fair hearing and will at the same time enable the Collector to prevent the proceedings from being unduly protracted by the necessity for recording all the evidence which may be tendered by the parties.

Section 9.—We consider that, if the person registered has not applied for registration, the Collector should give him special notice of the fact by registered letter in cases where his address is known.

Section 10.—This section which corresponds to section 8 in the original Bill has been materially modified. The chief amendment which we propose gives the Collector power to revise his decision as regards the registration of an estate upon application made within three months. This is designed to provide an easy means of remedying errors in registry which may be brought to light within a short period. It is possible that in certain cases the parties interested may be agreed as to the fact that a mistake has been made and in such cases it appears undesirable to compel them to have recourse to the Civil Courts in order to correct the registry. The second alteration which we propose will render Government liable for costs in suits regarding registrations made under the Act in which an appearance is put in on its behalf. In general, the Collector will be indifferent to the result of any such suit and will therefore not be represented at the hearing, although formally a party, and in such cases we consider that Government should not be made liable in costs. But, if for any special reason, the Government Pleader appears in Court in order to watch the interests of Government in a suit to which it is a party, we are of opinion that no such exemption should be granted. Government will be duly represented at the hearing and should take its chance as to the payment of costs just like other parties to the suit.

Section 14.—This section introduces a new and important provision into the Act. It has been represented to us that the general rule in Malabar is that the tenant pays the assessment. It is however the janmi who will be registered as proprietor in accordance with the provisions of this Act, and under section 13 it is against him that proceedings must be taken under the Madras Revenue Recovery Act II of 1864. The janmi may therefore be compelled to pay up the Government demand and be unable to recover it from his tenant for a considerable period. Section 14 therefore provides that in cases where the proprietor and the tenant agree the Collector may take proceedings against the tenant for the recovery of arrears of revenue due in respect of the estate. Where this is done, the primary responsibility for the payment of the revenue demand will devolve upon the tenant, while the interests of Government will be amply secured by its general power to take proceedings against the proprietor. We do not consider that the proprietor should be permitted to make such an arrangement as this in the case of tenants who hold under leases for a short period and the section accordingly debar such arrangements except in the case of tenants for a period of not less than five years.

This section would find a more appropriate place in a special tenancy law for Malabar and the Wynaad but pending the passing of such an enactment we have deemed it advisable to provide some relief for the hardship which may in certain cases be caused by the passing of this Bill.

(Signed) J. GROSE.
(") H. W. BLISS.
(") E. GIBSON.
(") J. H. SPRING BRANSON.
(") V. BHASHYAM IYENGAR.
(") C. VIJIARAGHAVACHARY.

MINUTE

Section 14 of the Bill which is a new and important provision introduced into it by the Select Committee does not at all, in my opinion, afford, as it now stands, real and adequate relief "for the hardship which may be caused by the passing of this Bill." It leaves it entirely optional with the Collector to register a tenant who has been allowed by the janmi to occupy the estate under an agreement that the tenant shall pay direct to Government the revenue assessed upon the estate; and even when the tenant is so registered it is left optional with the Collector to proceed at all or in the first instance against the tenant for realizing the arrears of revenue before taking proceedings against the janmi, the registered proprietor. If a tenant, who has agreed to pay direct to Government the revenue assessed upon the estate, does not choose to signify to the Collector his consent in writing to his being registered as occupant, the section provides no remedy to the janmi for enforcing such registration. The hardship which may be caused to the janmis by the passing of this Bill coupled with the repeal of Act VIII of 1865 will chiefly be in respect of estates now in the occupation of tenants and kanamdars from whom the revenue has hitherto been collected by Government. If such persons who are in occupation of the estate under an agreement that they will pay the land revenue direct to Government do not voluntarily signify their consent in writing to have their names registered by the Collector, the janmi should be in a position to enforce such registration. Otherwise most of the existing kanamdars and tenants would, in all probability, withhold their consent to be registered as occupants and prefer to drive the janmis to the tedious and expensive process of a regular suit for the recovery of the revenue from them. For the above reasons I would propose the two following sections in lieu of the present section 14. Under these sections it will be obligatory on the Collector to register a tenant as occupant and to proceed in the first instance against him, and thereafter only against the janmi; and in cases in which the tenant, notwithstanding that he has agreed to pay the revenue direct to Government, declines to signify his consent in writing to his registration, the janmi will be in a position to enforce such registration by a suit.

"14. Notwithstanding anything contained in this Act or in Regulation XXVI of 1802, a person entitled to occupy an estate, under a lease or other agreement in writing, for a period of not less than five years, shall, on the application of the registered proprietor, be registered as occupant jointly with such proprietor for the period of such lease or other agreement only.

Provided that no such registration shall take place unless such person signifies his consent in writing to such registration or a Civil Court of competent jurisdiction passes a decree, which it is hereby empowered to do, directing such registration in pursuance of a contract entered into between the proprietor and such occupant whereby the latter has undertaken to pay direct to Government the amount of land revenue assessed on such estate."

"15. In every case in which an occupant of an estate has been registered under the last preceding section and arrear of revenue has accrued due in respect of such estate subsequent to such registration, the Collector shall take proceedings in the first instance against such occupant under the provisions of the Madras Revenue Recovery Act II of 1864 in so far as they relate to the seizure attachment and sale of the moveable property of such occupant or of the crops or ungathered products of such estate and may, thereafter, if such arrear or any portion thereof has not been so recovered, proceed further under all or any of the provisions of the said Act against the registered proprietor.

Provided that nothing herein contained shall debar the proprietor from recovering by suit from such occupant the arrear of revenue or portion thereof which, owing to the default of such occupant, has been paid by, or recovered from, him."

14th November 1895.

(Signed)

I concur with the Honourable V.

(Signed)

15th November 1895.

V. BHASHYAM IYENGAR.

Bhashyam Aiyangar.

C. VIJIARAGHAVACHARY.

1875

Government of Fort St. George.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the Bill to
make better provision for the registration of
proprietors of land subject to the payment of
land revenue to Government in Malabar and
the Wynaad.

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HEAD AGAIN ORDER OF GOVERNMENT, DATED
1875, No.

NUMBER PAPER, No.

12

ENCLOSURES.

COUNTY No.

STATEMENT WITH DITTO.

ORDER, No. OF GOVERNMENT—A.

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Legre. DEPARTMENT.
G.O., DATED 20. 12. 95.
No. 139.

INDEXED.

First copy sent to Press. 20/12

Returned for signature.

Despatched in print. 8.1.96.

[Despatch Abstract.]

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

Come to the Legre Council
Pres. L. M. Dept, informing
the Chairman Municipal Council
Tirupattur, that the question of
making clear the provisions of
the law as to the time for which
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continue in force will be con-
sidered when Act IV of 1884
comes up for amendment

First copy sent to Press.

Returned for signature.

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READ AGAIN G.O., No.
139

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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