

Legislative (1899) Department.

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G.O., No. 43

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[Despatch Abstract.]

Bill further to amend The Madras Local
Boards Act, 1884.

Communicating to the Select Committee
~~on~~ — letter from the Govt
of India regarding certain amendments
proposed by the Select Committee.

T. 8.4.99

BACK PAPERS.

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

FURTHER PAPERS.

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

Government {1899} of Madras. LEGISLATIVE.

Recd.

Regd.

} 1899.

Enclosures

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G.O., No. 43, 8th April 1899.

APRIL.

Bill further to amend the Madras Local Boards Act, 1884.

Communicating to the Select Committee on the — letter from the Government of India regarding certain amendments proposed by the Committee.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper :—

From H. W. C. CARNDUFF, Esq., Officiating Secretary to the Government of India, Legislative Department, to the Secretary to the Government of Madras, Legislative Department, dated Calcutta, 24th March 1899, No. 695.

I am now directed to address you in reply to your letters noted on the margin regarding certain amendments proposed by the Select Committee on the Bill to amend the Madras Local Boards Act, 1884, and am to convey the following observations of the Government of India on the subject.

2. The Select Committee are desirous of amending section 57 of the Act so as to authorize the raising of the tax on the annual rent-value of land by three pies on the rupee, subject, however, to the conditions that this additional cess shall be expended solely on railways and tramways and that its levy shall be sanctioned by Government only on a resolution agreed to by not less than three-fourths of the existing members of the District Board, such resolution being ratified six months later by another resolution of the District Board, also passed by three-fourths of the existing members. The Government of India are, however, disposed to consider that to require such a majority would render the amendment practically unworkable, and it is suggested that it would be sufficient to provide that the original resolution and subsequent ratification shall be agreed to by three-fourths of the members present at a meeting specially convened to consider the proposal.

3. The Bill contains no provision for the amendment of the Act with reference to the point raised in the Resolution of the Government of India in the Home Department No. 7—407-419, dated the 30th March 1893, which related to the grant of pensions for mixed service, rendered partly under the Government and partly under a local authority. The attention of the Government of Madras was drawn to this matter in the letter from that department, No. 4, dated the 25th March 1898, but it has not been noticed in either of the communications cited in paragraph 1 above, and it is presumed that the opinion expressed in this connection in the Chief Secretary's letter No. 635, Financial, dated the 16th June 1892, is adhered to. It seems, however, to the Government of India to be more than doubtful whether clauses (v) and (vi) of section 46, sub-section (1), of the Act are sufficient to empower a local board to contribute towards the pension, on ultimate retirement from the service of the Government, of an officer who has merely resigned the service of the board in order to join that of the Government; and, if that be so, it follows that the necessary power could not be taken by means of a rule under clause (vii) of section 144. I am, therefore, to express the hope that the Governor in Council will reconsider the question in consultation with the Law Officers of the Government of Madras, if they have not already advised upon it, in order that any possible doubt may be removed.

4. Subject to these observations, the Governor-General in Council approves of the amendments discussed in your letters now under acknowledgment. No objection is offered to the new penal clause contained in sub-section (3) of the proposed section 117 of the Act.

ORDER—No. 43, Legislative, dated 8th April 1899.

Communicated to the Select Committee on the Bill further to amend the Madras Local Boards Act, 1884.

(True Extract.)

H. TREMENHEERE,
Secretary to Government.

APPENDIX.

LETTER—to the Secretary to the Government of India, Legislative Department, dated Fort St. George, 15th November 1898, No. 75, Legislative.

In its telegram No. 3, Home Department, dated 5th March 1898, the Government of India agreed to the introduction at once in the Local Legislative Council of a Bill further to amend the Madras Local Boards Act V of 1884, subject to the consideration by the Select Committee of the remarks which might be made by the Government of India later on. The Bill was accordingly introduced in the Legislative Council at its meeting of 4th April 1898 and was referred to a Select Committee, with whom it is now under consideration. Subsequently, in its letter No. 4, Home Department, dated 25th March 1898, the Government of India conveyed the sanction of the Governor-General in Council to the penal clauses of the Bill, subject to certain observations and suggestions, and these have been duly communicated to the Select Committee.

2. The Select Committee now proposes to amend section 57 of the Act so as to authorize the raising of the tax on the annual rent-value of land by three pies in the rupee, subject, however, to the conditions that this additional cess shall be expended solely on railways or tramways, and that its levy shall be sanctioned by Government only on a resolution agreed to by not less than three-fourths of the existing members of the District Board, such resolution being ratified six months later, by another resolution of the District Board, also passed by three-fourths of the existing members.

3. The circumstances under which the imposition of this special cess is recommended are as follows:—

Under section 57 of the Madras Local Boards Act V of 1884, the cess on land is leviable at a rate not exceeding two annas in the rupee on the annual rent-value of all occupied lands in the districts of Malabar, South Canara, and the Nilgiris, and not exceeding one anna in the rupee on the annual rent-value of such lands elsewhere. From the year 1880 the District Board of Tanjore has been reserving a fourth of the collections under this tax, i.e., three pies in the rupee on the annual rent-value of land, for the purpose of guaranteeing the re-payment, with interest, of the loans which might be raised for the construction of branch railways and tramways in substitution for road communications, as owing to the special character of the soil of the district and the peculiar conformation of its surface, the construction of roads and their maintenance in an efficient condition are very difficult and expensive, while on the other hand there are peculiar facilities for the cheap construction of railways and tramways. A portion of the funds thus reserved has been utilized on the construction of a railway line from Mayavaram to Muttupet, and the District Board has derived a net annual profit of 3.9, 4.05 and 4.5 per cent., respectively, on the capital outlay during the last three years. This Government agrees with the Select Committee of the Legislative Council in considering that there are many other districts in the Presidency, such as Gódvári, Kistna, parts of Madura, Malabar and Tinnevely, which are much in the same state as Tanjore, as regards difficulties in road-making and facilities for the construction of railways and tramways, but that the reservation for this purpose, of a portion of the land-cess as in Tanjore, would probably land the Boards in financial difficulties.

4. In the circumstances above set forth, I am to request that the sanction of the Government of India may be accorded at a very early date to the proposed amendment.

(Signed) H. TREMENHEERE,
Secretary to Government.

LETTER—to the Secretary to the Government of India, Legislative Department, dated Fort St. George, 30th December 1898, No. 88, Legislative.

In continuation of my letter, No. 75, Legislative, dated the 15th ultimo, I am directed to report, for the information of the Government of India, that the Select Committee on the Bill further to amend the Madras Local Boards Act, 1884, has proposed the following further amendments in the Act which His Excellency the Governor in Council is prepared to accept when the Bill as amended by the Committee is taken up for consideration:—

(1) The abolition of the distinction between major and minor unions by striking out the definitions of such unions in section 3 of the Act, and by combining and imposing on unions generally, in section 141, the duties now assigned to the two classes of unions;

(2) The insertion of a provision in section 73 of the Act with a view to relief being afforded to landholders in the matter of collecting land-cess from intermediate landholders, if any;

(3) The insertion of a new section (section 81-A) for the issue of distraint warrants in unions in proper form and signed by the chairman of the union panchayat;

(4) The insertion of a provision in section 117-E, making it compulsory on taluk boards to issue licenses for existing markets;

(5) The insertion of a new section (section 117-J) providing for an appeal to the District Board from certain orders of the taluk board affecting private markets;

(6) The insertion of a new section (section 117-P) against opening or keeping open private cart-stands without a license from the taluk board; and

(7) The insertion of a new section (section 162-D) empowering a magistrate of the first or second class to assess, in case of dispute, all costs, damages, charges or expenses payable or recoverable under the Act.

2. The only one of these amendments which may be regarded as possibly falling within the scope of paragraph 7 (1) of the revised instructions regarding Legislation is that numbered (2) above. In regard to this I am to explain that ordinarily the zamindar pays half the land-cess, and the ryot holding immediately under him pays half. Here and there, however, there are persons holding on under-tenure from the zamindar one or more villages the rent of which they enjoy either free of payment or paying some less sum to the zamindar as *jodi*. Equity requires that such an intermediate holder should pay a share of the land-cess proportionate to the share of the rent which he retains. But at present, according to a ruling of the High Court, the zamindar can collect from him no portion of the land-cess except that leviable from the tenant. Hence the intermediate holder escapes land-cess at the expense of the zamindar. It has, therefore, been represented to His Excellency the Governor in Council that, in view of the hardship thus caused to the zamindar, section 73 of the Act may be amended, and the Select Committee to whom the suggestion was communicated has agreed to accept the amendment.

3. The remaining amendments are not of importance, but with regard to that numbered (1), I am to observe that the several district boards in the Presidency who were consulted as to whether the maintenance of any distinction between major and minor unions was necessary, have with almost complete unanimity reported in favour of its abolition. Amendments numbered (5) and (6) were considered desirable, while those numbered (3) and (4) are proposed with reference to the remarks in clauses (a) and (c) of paragraph 3 of Mr. Hewett's letter No. 4—Home Department (Local Boards), dated 25th March last, and that numbered (7) follows sections 438 and 439 of the City of Madras Municipal Act I of 1884.

4. In the foregoing circumstances I am to bring the proposed amendments to the notice of the Government of India. The Select Committee has not yet fully completed the revision of the Bill, but a copy of the Bill as provisionally amended by it is herewith forwarded with a copy of Act V of 1884 as amended by the Bill and by the further proposed amendments above set forth. A few more amendments printed in italics are noticeable in the Bill now forwarded, but they are mostly verbal and do not call for any special remarks.

5. I am also to solicit sanction for a new penal clause in sub-section (3) of proposed section 117-P.

(Signed) H. REMENHEERE,
Secretary to Government.

LETTER—to the Secretary to the Government of India, Home Department, dated Fort St. George, 16th June 1892, No. 635, Financial.

In reply to your letter, No. 24—2605, Public, dated 2nd October 1891, in which an expression of the opinion of this Government was desired on the following points:—

- (1) whether an Act on the lines of 23 and 24 Vic., Cap. 89, should be passed in order to provide for cases of mixed Municipal and Government service where the former counts for pension;
- (2) whether the proposed legislation should not extend to other local services counting for pension;
- (3) whether such legislation should not take the form of removing and modifying such restrictions as are imposed by the present law on local bodies in the matter of granting pensions;

I am directed to make the following remarks.

2. With reference to the first of the questions, cases of mixed Municipal and Government service can be provided for, so far as the City of Madras is concerned, by rules framed under section 48 of Madras Act I of 1884 (the City of Madras Municipal Act), and as service in District Municipalities has been declared to be non-pensionable, cases of mixed District Municipal and Government service cannot possibly arise. There is therefore, I am to say, no necessity, so far as this Presidency is concerned and in this direction, for any such enactment as the Secretary of State has suggested.

3. With regard to the second question, I am directed to give a similar answer in respect to legislation in connection with other local services counting for pension. The cases of mixed Local Fund and Government service are now governed by Article 860 of the Civil Service Regulations, and this will be incorporated in the rules framed under section 144 (vii) of Madras Act V of 1884 (the Madras Local Boards Act). No question of proportionate pensions payable from Cantonment funds can arise, as service rendered in connection with Act XIII of 1889 (the Cantonments Act) does not now qualify for pension, while, should such service at any time be declared pensionable, there will, the Governor in Council apprehends, be no difficulty in providing for proportionate pensions under an order of the Government of India.

The case of the special funds under the control of the local Revenue Department, namely the Pound, Village Service and Irrigation Cess funds and of the Port Excluded Local fund, has also been considered, and this Government sees, I am to say, no necessity for any legislation of the kind suggested.

4. As the answers to the first and second of the questions have been in the negative, it is now unnecessary to reply to the third, or to furnish any such list as is asked for at the end of your letter.

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

Legislative (1899) Department.

CURRENT No. 95.

From The Govt of India
Legislative Dept

No. 695

Dated 24.3.99

Received }
Registered 29-3-99.

Enclosures

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SUBJECT.

Addressing in reply
of this office letters
regarding certain amend-
ments proposed by the
Select Committee on the
Bill to amend the Madras
Local Boards Act.

Order
P.S.

Communicated to the Select Committee
on the Bill further to amend the
Madras Local Boards Act, 1884.

ale
3/4/99

4/4/99

To
(1) The Local Board Dept
(2) a Select Committee on the Bill
further to amend the Madras
Local Boards Act, 1884

with copies of Letters to the Govt of India Nos
75 & 88 Legislative (C) & (D)
of 15 Nov & 30 Dec
1898 & of 8.6.92
Final of 16.6.92

Note There is apparently no objection
to furnishing the Select Committee
with copies of this Govt letter
referred to above.

none
H.T.

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READ AGAIN G.O. No.
189

DATED

CURRENT No.

95 — a

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A

LETTER OF GOVERNMENT.

Print letters 75,488 to 76,357 full as appendix
1895 92

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Shun Joo

22/11/23

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