

Legislative (1899) Department.

ORDINARY MS.

G.O., No. 73

DATED 20-6-99

INDEXED.



[Despatch Abstract.]

Recording the despatch from the Rt.
Honble the Secy of State ^{for India} directing the
attention of this Madras Govt to some
of the provisions of the Malabar
Compensation for Squatters' Improve-
ments Bill Act, 1887

T. 20.6.99

BACK PAPERS.

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

FURTHER PAPERS.

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

L. & M.
800-29-3-99.

Legislative Local & Munt. (1899) Department.

CURRENT No. 159

From
The Secretary of State for India

Order no. 73 of 20.6.99
his

Recorded.

No. 1.

Dated 5 January 1899

Received
Registered } 12 June 1899.

Enclosures

Spare copies

SUBJECT.

Drawing the attention of the Madras Govt
to some of the provisions of the Malabar
Compensation for Tenants' Improvement
Bill

PH
15/6/99
Vote

As regards objections in paras 3, 4 & 5
of the Despatch, please see paras 16-18,
23 & 22 respectively of the Select Committee's
report. (B)

Note
Is it not necessary after the
Select Committee's report is
finally passed to send copies of
Report & amendments to the
India & the S. of S.

Note
Subs. quarterly settled
when S.C. report was
about to issue that
part of India need not
be approved - by Govt
under the Act

Under no 7 of the revised instructions regarding legislation in local Councils, if the Local Govt
considers that the amendments are such that a reference to the Govt of India is necessary, such
reference should be made. In this case a reference seems necessary. The communication
to the Secretary of State will be made by the Govt of India if that Govt considers it desirable.

1530
CURRENT No. 159
Recd in
Office on 10-6-99
CHIEF SECRETARY
GOVERNMENT OF MADRAS
24 JAN 1899

India Office,
London, 5th January 1899.

Revenue,
No. 1.

To His Excellency The Honourable The Governor
in Council, Fort St. George.

SIR,

Bill to amend the Malabar Compensation
for Tenants' Improvements Act, 1887.

I have had under my consideration in
Council your Government's Letter No. 10, dated 12th October last, and the Bill to amend the
Malabar Compensation for Tenants' Improvement
Act, 1887, therein enclosed. RD

A.H.
23.1.99

2. In dealing with a Bill of this kind I am as a
rule averse from entering into the consideration of
details, which can be best settled by those inti-
mately acquainted with the local conditions to be
dealt with, but there are two or three matters in
connection with this Bill which seem to me to call
for notice. I observe that the chief object your
Government has in view in recasting the existing
Act is that of confining within very narrow limits
the discretion exerciseable by the authorities
assessing compensation for improvements. Now,
if this is practicable, there is much to be said in
favour of it; but it is a thing which, so far as I
am aware, has not been attempted in any similar
legislation, either in the United Kingdom or in
India, and there is a danger that, if pushed beyond
a certain point, it may be productive of inequalities
and injustice.

3. This remark applies in particular to Clause (c)
of Section 8 of the Bill. In so far as that clause
proceeds on the principle that the increase in the
value of the annual net produce of the holding is
the result of the joint operation of the improvement
and the inherent capabilities of the soil, and that
any excess in the capitalized value of that increase
over the cost value of the improvement should
accordingly be shared in some proportion between
the landlord and the tenant, the new proposals
are in complete accord with the views generally
received. But it is obvious that the particular
proportion in which that excess should be divided
between the landlord and the tenant must vary
widely according to circumstances, and must in
particular depend on the extent (roughly estimated
of course) to which the improvement and the
7009. I. 7.

inherent capabilities of the soil have respectively contributed to bring about the increased out-turn. There may, *e.g.*, be two holdings of equal area, but so differing in the nature of the soil, the configuration of the ground, and the facilities for making a water supply available, that a given sum spent in establishing irrigation on one of them may produce an increase of out-turn many times as valuable as the increase which would result from spending an equal sum on the other. To give to the landlord of the former holding in such a case only the same proportion of the excess as to the landlord of the latter holding would be manifestly unjust; and hence it seems to me that, unless the conditions prevailing in the Malabar district are widely different from those to be found usually prevailing elsewhere, it would be wrong to lay down as a hard and fast rule universally applicable that three-fourths, or any other fixed proportion, of the excess in question should be assigned to the tenant. I accordingly suggest, for the consideration of your Government, whether it would not be better to leave the proportion referred to for settlement by the officer dealing with each case at his discretion.

4. Another point on which it appears to be inexpedient, and indeed unjust, to lay down a hard and fast rule, is that as to the compensation to be awarded to a tenant for timber and fuel trees planted by a previous tenant (not his predecessor in interest) or by the landlord, or which had been spontaneously growing on the land from a time previous to the commencement of the tenancy. The rule laid down in Section 9 (1) is that the tenant shall invariably be awarded one half of the value of such trees, the result of which, unless there is something in the case which does not appear from the papers, would be that a tenant might this year take land with a number of mature teak trees of considerable value on it, and, on being ejected a year or two hence, would be entitled to claim from his landlord half their value. Here, too, it would probably be best to leave the amount of compensation to the discretion of the officer dealing with the case.

5. There is one other point to which I wish to direct attention, and that is the provision in Section 6 (2) that a decree for ejectment, conditional on the payment of compensation to the tenant, may be executed on the application of the tenant as well as on that of the landlord. If your intention is merely that, in the event of the landlord proceeding to execute his decree by ejecting the tenant, the tenant may, by process of execution, enforce against the landlord the condition as to the payment of compensation, I have only to say that this should be expressed in more precise language. But it would seem that the landlord could only enforce his conditional decree upon fulfilment of the condition by paying the money into Court, and therefore the better

interpretation of Section 6 (2), as it stands, seems to be that the tenant may, at his option, give up the land and recover the compensation money by process of execution, even though the landlord may consider the sum awarded excessive, and be willing in consequence to continue the tenancy. In the absence of explanation, I consider it very questionable whether such a provision would be just or reasonable.

I have the honour to be,

Sir,

Your most obedient humble Servant,

George Hamilton

No. 3

When given for copying _____
When copied _____
When examined _____
When signed _____

189 .

READ AGAIN G. O., No. _____, DATED
189 ,

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

LETTERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

- A = Copy in full.
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