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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 693 Press / Mis.

115-116.

Dated 28-5- 1872.

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115 - 116

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department, 28th May 1872.

No. 115. Read the following letter from J. W. BREEKS, Esq., President of the Municipal Commission, Ootacamund, to the Chief Secretary to Government, Fort St. George, dated Ootacamund, 30th April 1872, No. 55:—

I have the honour to forward a paper of amendments and additions which the Ootacamund Municipal Commissioners wish sanctioned in certain of their bye-laws, in accordance with a resolution passed at their meeting on the 22nd April 1872.

A letter from the Honorary Secretary, Mr. Grigg, is forwarded setting forth the reasons which induce the Commissioners to recommend the change.

2. Two only of the proposed amendments seem to me to call for remark, viz., that on Bye-law No. 6, and that on Bye-law No. 20.

3. Power is given to Municipalities to pass punitory bye-laws with the sanction of Government in the interest and for the protection of what is considered as the public weal. This power if not carefully watched may easily be carried too far, and become prejudicial if not oppressive, rather than beneficial. The Municipal Commissioners, in their proposed amendment to Bye-law No. 6, seem to me to be carrying their punitory power too far when they include therein cattle trespass upon the property of a private individual who has already his remedy provided by the Legislature according to the nature of the case. The Commissioners do not consider the amendment as proposed by them a greater departure from the principle on which bye-laws are justifiable, than is observable in Bye-laws Nos. 8, 23 and 33. I cannot agree with them. No. 3 provides against what is not only a danger, but almost a certainty of loss of life, if wells accessible to children are left unfenced. No. 23.—The first part provides for public decency, offences against which, though not in themselves directly injurious, have been placed under restraints suitable to the state of society in which we live. The latter part of the bye-law is clearly justifiable on sanitary grounds for the protection of the public. No. 33 is a proper restriction to guard against accidents from fire-arms.

4. Risk of accident cannot reasonably be urged to bring the proposed amendment within the jurisdiction of the Municipality, for private owners may fence their properties.

In public thoroughfares and places of general resort risk of accident obviously justifies restraint.

5. *Bye-law No.* 20.—Part of the amendment proposed is to the effect that *tom-toms* should not be beaten, and musical instruments should not be played, in lieu of the words "*in the public thoroughfares within municipal limits,*" at any hour of the day or night without written permission from the Commissioners.

Here, again, in my opinion, the Commissioners go too far. Restrictions as a rule are only justifiable to prevent harm to others. If a man uses his liberty as to "commit a public nuisance," the Penal Code provides a remedy.

From HENRY B. GRIGG, Esq., Honorary Secretary of the Municipal Commission, Ootacamund, to the President of the Municipal Commission, Ootatacamund, dated Ootacamund, 27th April 1872, No. 54.

In forwarding to you, at the request of the Commissioners, an extract from the minutes of the

meeting held, showing the alterations and amendments which the Commissioners are anxious to have made in the bye-laws, I have the honour to make the following observations:—

Bye-law No. 1.—As regards Bye-law No. 1, the addition of an exemption clause was thought desirable, as it appeared to the Commissioners a great hardship to call upon potters, and others of a similar trade, who had already been taxed under Schedule B, to pay an additional fee.

Bye-law No. 6.—This bye-law has been quite recast and has been made to include trespass upon private property, *i. e.*, it secures to private individuals redress from a nuisance for which the Cattle Trespass Act has been found quite inadequate in this Municipality. It does not appear to the Commissioners to be a greater departure from the principle that bye-laws should only relate to actions or omissions which are of a public or *quasi*-public nature, than is observable in Bye-laws Nos. 3, 23, and 33. In these cases certain acts are enjoined or prohibited as being inconsistent either with the health or safety of the general public, or even as in Bye-law 23 with the pleasurable sensations of a certain section of the public. The cattle nuisance in Ootacamund is so intolerable owing to the native character of the herdsmen, and the unfenced state of many of the grounds attached to houses, that, for the general convenience and comfort, some more effective remedy than that of impounding and more speedy and easy than that of a civil suit is called for. The Commissioners, therefore, hope that the Government may look upon this as an exceptional case needing an exceptional remedy, and accordingly grant their sanction to this revised bye-law; but should this be refused they request that sanction may be accorded to the revised bye-law, simply with the omission of the words "any private property within municipal limits."

Bye-law No. 10.—This is rendered necessary by the passing of Act III. of 1871.

Bye-law No. 20.—The alterations have been called for as the bye-law as it now stands only punished the beater, and not the real offender, the man who hires the musician. Moreover a man may now beat tom-toms everlastingly in his own courtyard, to the great annoyance of his neighbours with impunity, unless he be prosecuted for nuisance under the Penal Code.

Bye-law No. 23.—The words "of Ootacamund" are a surplusage.

Bye-law No. 28.—The Commissioners desire to change the hours for slaughtering, as the midday interval now given is not sufficient for the thorough cleaning of the houses.

Bye-law No. 33.—At present a person may shoot snipe round the lake, or discharge a gun on a public road with impunity.

Bye-law No. 34.—Difficulties have occurred in regard to the indiscriminate massacre of dogs regardless of their sort or value, and to check this evil, the Commissioners propose that any dog should be liable to be killed if found without his owner not muzzled or collared.

Extract from Minutes of a Meeting held on the 22*nd April* 1872.

Resolved that the sanction of Government be requested to the following amendments and additions to Bye-laws Nos. 1, 6, 10, 20, 23, 28, 33, and 34:—

Bye-law No. 1.—The following words to be appended:—

"All potters and other workers in clay paying tax under Schedule B are exempted from this license fee."

Bye-law No. 6.—The following to be substituted:—

"The owner or proper custodian of any buffalo, bullock, bull, cow, calf, sheep, goat, donkey or pig, who shall negligently or otherwise permit any of the above-named animals to stray or enter upon any private property within the municipal limits, or to be on any road, place or thoroughfare, without being properly attended, and under due control, shall be liable on a conviction to a fine not exceeding Rupees 20."

Bye-law No. 10.—For words "under Section 74 of Act X. of 1865 (Madras), substitute "under Section 52 of Act III. of 1871, Madras."

Bye-law No. 20.—Afterwards "from beating" insert "or causing to be beaten," and for the words "in the public thoroughfares" substitute "within the municipal limits."

Proceedings of the Madras Government, Financial Department,
28*th May* 1872.

Bye-law No. 23.—Omit the words "of Ootacamund."

Bye-law No. 28.—Substitute for "between 6 A.M. and 10 A.M., and 2 P.M. and 7 P.M." "from daylight to 8 A.M.," and "from 2 A.M. to 8 P.M."

Bye-law No. 33.—Insert after "fire-works," "or fire-arms." And for the words "within one hundred yards of a public thoroughfare," substitute "within two hundred yards of any public thoroughfare."

Bye-law No. 34.—After "muzzled," insert the words "nor having a collar."

OOTACAMUND,
25*th April* 1872.

(Signed) H. B. GRIGG,
Honorary Secretary.

No. 116. ORDER THEREON, 28th May 1872, No. 693.

The Government concur with Mr. Breeks as to Bye-laws Nos. 6 and 20.

2. The Government are competent, under Section 38, to permit the exemption provided by the addition to Bye-law No. 1, and there is no objection to the exemption being made in the form proposed.

3. The alterations proposed by the Commissioners, except those to Bye-laws Nos. 6 and 20, are sanctioned, and the revised bye-laws should be published for one month in the *Neilgherry District Gazette.*

(True Extract.)

Chief Secretary.

To the President of the Municipal Commission, Ootacamund.

Exd. J. Wright.

Municipal Commissioners Office
Potacaummud 30th April 1872

No. 55

From.

J. W. Breeks Esq
President
Potacaummud Municipal Comm.

To

The Chief Secretary to Government
Public Department
Fort Saint George.

Sir,

I have the honor to forward a paper of Amendments and Additions which the Potacaummud Municipal Commissioners wish sanctioned in certain of their Bye laws, in accordance with a resolution passed at the meeting on the 23rd. April 1872.

A letter from the Honorary Secretary Mr. Gregg is forwarded setting forth the reasons which induce the Commissioners to recommend the change.

2. Two only of the proposed Amendments seem to me to call for remark viz: that on Bye Law No. 6, and that on Bye Law No. 20.

3. Power is given to Municipalities to pass penitory bye laws with the sanction of Government in the interest and for the protection of what is considered as the public weal. This power if not carefully watched may easily be carried too far, and become prejudicial if not oppressive rather than beneficial.

Govt. of India (1872) 30 Apr. FINANCIAL
Municipal Commissioners
Potacaummud
G.O. 28th May 1872, No. 993
MAY.
Nos. 115-116.

The Municipal Commissioners in their proposed Amendment to Bye Law No 6, seem to me to be carrying their statutory power too far, when they include therein cattle Trespass, upon the property of a private individual, who has already his remedy provided by the Legislature according to the nature of the case,
The Commissioners do not consider the Amendment as proposed by them a greater departure from the principle on which Bye Laws are justifiable than is observable in Bye Laws No 3. 23, and 33.
I cannot agree with them, -
No 3 provides against what is not a danger, but almost a certainty of loss of life, if wells accessible to children are left unfenced, -
No 23. The first part provides for a public decency, of process against which though not in themselves directly injurious, have been placed under restraints, suitable to the state of Society in which we live,
The latter part of the Bye Law is clearly justifiable on Sanitary Grounds for the protection of the Public, -
No 33. is a proper restriction to guard against Accidents from Firearms,
4. Risk of Accident cannot reasonably be urged to bring the proposed Amendment within the jurisdiction of the Municipality

for Private Owners may fence their properties,
In Public thoroughfares and places of General resort risk of Accident obviously justifies restraint.
5. Bye Laws No 20. Part of the Amendment proposed to the effect that tom toms should not be beaten, and musical instruments should not be played, in lieu of the words; "in the public thoroughfares within Municipal limits", at any hour of the day or night without written permission from the Commissioners,
Here again in my opinion the Commissioners go too far; Restrictions as a rule are only justifiable to prevent harm to others, - Upon what can his intent as to "commit a public nuisance", the Penal Code provides Summarily, -

I have the honor to be
Sir
Your most obedt Servt.

Wm Seed
President
Port Louis Municipality

Govt. of {1872} Madras.

Financial

To the Presd.t Munl. Commr.s
Bobbasammud.

Dated. May. 28.
Recd.
Encl.

G. O. 28 May, 1872, No. 693.

Nos. 115. 116.

Sanctioning the alterations proposed by the Munl. Comrs. to certain of their bye-laws except those to ~~be last~~ No. 6 & 20 and directing that the revised bye-laws be published for one month in the Fort St. George Gazette.

Pd. 8 July 1872. A.G. Pd.
Bobbilli Bye Laws.

From 1872 Madras.

To
H. Reeves Esq.
Secretary Govt.

Sir Chingleput Estate
to Government
Fort Saint George
4 1877.
Dated 26 April 1872
Read 1 May —
No 55
Enclosures — 2

Subject
Bye Laws

I forward a copy of
Communications to Fort
St. Geo. which the Commissioners
sanctioned in Council
Proceedings of 28 May
No 693 & 694
& which are Orders

Pd. 8 July 1872. A.G. Pd.
Bobbilli Bye Laws.

28th May 1872 No. 693.

6

The Sct. concur with Mr. Brooks as to bye laws No. 6, ~~last clause~~ sup 20 ~~that the proposed alterations in the bye laws Nos 6 & 20 may be sanctioned~~

2. The Sct. are competent under section 38 to ~~not~~ permit the exemption provided by the addition to bye law No. 6, and there is no objection to the exemption being made in the form proposed.

3. The alterations proposed by the Commissioners, except that to bye laws No 6 & 20 are sanctioned, and the revised bye laws should be published for one month in the Fort St George Gazette.

Pd. Sct. Munl. Comrs.
6 Feb 1877