(1) Number of pieces _____

(2) Date of report _____

(3) Initials of the Indexer _____

MADRAS RECORD OFFICE.

Government of Madras.

[illegible] DEPARTMENT.

G.O. No.	۱۷۰۹	Press / Mis.
۱۷۰		۱۸۹-۱۹۰
Dated	۲۰-۱-	۱۸۹۱.

۱۵/۱۱

Not to be folded or roughly handled

Municipal—Bye-laws.

No. 139. Read the following Opinion of the Advocate-General on certain revised Municipal Bye-laws proposed for the Trichinopoly Municipality:—

OPINION.

These Bye-laws are, I presume, made under Section 163 of the Towns Improvement Act, 1871 (M). Assuming this to be the case I cannot recommend that the sanction of Government be accorded to them, inasmuch as they are, in my opinion, in numerous instances superfluous or illegal. Section 163 allows of bye-laws being passed for—(1), regulating the time and mode of collecting the rates and taxes mentioned in the Act; (2), regulating the conduct of persons employed by the Commissioners; (3), the management of all matters connected with conservancy; and (4), carrying out all the purposes of the Act. The purposes of the Act are conservancy and improvement of towns, diffusion of education, objects of public utility which are set out in Section 29, and certain other matters detailed in the body of the Act. Except for these purposes there is no power conferred to issue bye-laws; nor even for these purposes is it a proper use to make of bye-laws to endeavour by their means to supplement the provisions of the Act by extending its operation to matters to which the Legislature has not thought fit to apply it. The object of a bye-law is to regulate the details of some power conferred or some liability imposed by the Act, not to confer new powers, or impose additional liabilities. For instance, rates, taxes, and tolls being leviable under Sections 38—84, bye-laws might with propriety be framed for the purpose of regulating the time and mode of collecting them; registration under Sections 88—95 might be similarly dealt with; the general conservancy clauses, Sections 96—153, lay down a large number of rules and confer numerous powers, the details of which it is convenient to leave to the local authorities in each case to settle, and which are accordingly provided for by bye-laws and not by direct enactment. But this does not legalize such bye-laws as those proposed by Mr. Pennington, which sometimes re-enact the provisions of the Act in less exact language, sometimes confer somewhat different or enlarged powers, sometimes deal with matters for which the Act makes no provision. The Government has already in its order noticed several objections, and, in my opinion, many of the other bye-laws are equally open to criticism, and I venture to recommend that the Commissioners be invited to reconsider the whole with reference to the above suggestions. An instance has recently occurred in which a conviction on a bye-law has been quashed by the High Court on the ground of the bye-law being *ultra vires*, and it is most undesirable to incur the risk of a repetition of such a mishap.

2. I append a detailed statement of the grounds on which I think the bye-laws open to objection:—

Bye-law 1. Provided for by Sections 100—116.
2. Beyond the scope of the Act.
3. Do.
4. Do.—See Section 136.
5. Provided for by Section 149.

Bye-law 6. This may be said to be a "matter connected with conservancy," but it is a somewhat strong interference with the habits of the people, and of questionable legality.

7. The right provision would be to deal with cases in which animals were kept so as to create a nuisance; this bye-law as it stands might be oppressively worked. Many a man keeps his pony under his verandah and does no harm to any one by so doing.

8. See Section 110.

9 & 10. Section 111.

11. Do. 99.

12. Do. 151.

13 & 14. Do. 119.

15. Beyond the scope of the Act.

16. Do.

17—21. Do.

22. See Section 114 of the Act.

23. Illegal.

24. Illegal. Beyond the scope of the Act.

25. Do.

26. Do.

29. Illegal.—See Sections 133—135.

30. Unnecessary.—See Sections 126 and 127.

31. This is an unsavory matter, but the legality of the bye-law is open to question. I believe that pigs and poultry are frequently fed with what is termed "offal," the coarser portions of butcher's meat. Under Section 127 it would seem necessary to show that the article offered for sale was "unfit for human food."

32. A bad edition of Section 119.

33. Illegal.

34. I presume that this refers to the fee chargeable under Section 153. If so, it is not properly expressed.

35. No such exemption is sanctioned by the Act.

3. I must observe in conclusion that the bye-laws appear to me to offend almost as much by way of sins of omission as of commission, and that many most important matters are overlooked: the mode and time of collecting rates, taxes, and tolls; the management of the subordinate staff; registration of books, &c.; registration of carts and vehicles; inspection under Sections 113, 126, 137, &c., would seem to need provision, but no reference is made to these matters in the bye-laws submitted.

MADRAS,
16*th May* 1875.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

No. 140. ORDER THEREON, 20th July 1875, No. 1509.

The opinion of the Advocate-General will be communicated to the Municipal Commissioners of Trichinopoly in view to their revising the bye-laws submitted

2 A1

Proceedings of the Madras Government, Financial Department,
20th July 1875.

with their President's letter, dated the 21st December 1874, No. 111, in accordance with the opinion.

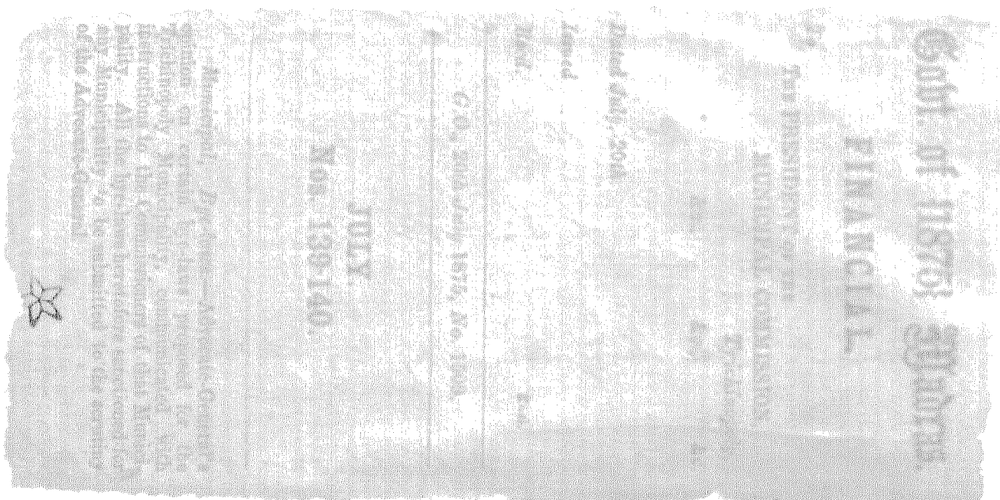
2. The Government will take steps to submit all the bye-laws heretofore sanctioned in any Municipality to the scrutiny of the Advocate-General.

(True Extract.)

D. F. CARMICHAEL,
Officiating Chief Secretary.

To the President of the Municipal Commission, Trichinopoly.
,, all other Presidents, for information.
,, the Advocate-General.

Exd. T. O'Connor.


Govt. of India, Home
FINANCIAL
JULY
No. 1910-40.

Opinion

Then bye-laws are, I presume, Bye-laws under Section 163 of the Towns Improvement Act 1871 (XI). Assuming them to be the case I can not recommend that the sanction of Govt be accorded to them, inasmuch as they are, in my opinion, in numerous advance many instances superfluous or illegal.

Section 163 allows of bye-laws being passed for (1) regulating the time & mode of collecting the rates & taxes mentioned in the Act (2) regulating the conduct of persons employed by the Commissioners (3) the management of all matters connected with conservancy & (4) carrying out & for the purposes of the Act. The purposes of the Act are conservancy & improvement of towns, diffusion of education,

objects of public utility which are set out in Section 24, & certain other matters detailed in the body of the Act. Except for these instances there is no power conferred to frame byelaws; nor even for these purposes is it a proper use [illegible] of a byelaws to endeavour by their means to supplement the provisions of the Act by extending its operation to matters to which the Legislature has not thought fit to apply it. The object of a byelaw is to regulate the details of some power conferred or some liability imposed by the Act, not to confer new powers, or impose additional liabilities. For instance rates, taxes & tolls being leviable under Ss. 38 – 84, byelaws might with propriety be framed

H

24 · Illegal · Beyond the scope of the Act.

25 · do.

26 · do.

29 · Illegal · See secs 133 – 5.

30 · Unnecessary. See Ss. 125 – 7.

31 This is an unsavoury matter, but the legality of the byelaw is open to question. I believe that [illegible] a penalty on [illegible] with what is termed "offal", the coarser portions of butchers' meat. Under S 127 it wd seem necessary to show that the article offered for sale was "unfit for human food."

32 · a bad edition of S 119.

33 · Illegal.

34 I presume that this refers to the fee chargeable under S 153. If so, it is not properly expressed.

35 No such exemption is contained in the Act.

I must observe in conclusion that the Regulations appear to me to offend almost by way of omission as of commission: what seems most important matter an overlooked: the mode of collecting rates tolls & dues - the manner of the Introduction of Bye-laws - registration of books, inspection under ss 88, 89, 90; registration of carts vehicles, &c would seem to need provision, but no reference is made to these matters in the bye-laws submitted.

Mr Commissioner

6m

for the purpose of regulating the time & mode of Collecting them: registration under ss 88–96 might be similarly dealt with: the General Regulations under ss 96 – 158 lay down a Carpe Diem of rules & confer numerous powers, the details of which do not commend themselves to the local authorities in each case to frame & which can accordingly, proceeded for by Bye-laws & not by direct enactment. But this does not explain such bye-laws as those proposed by the Regulations, which sometimes re-enact the provisions of the Act in less exact language, sometimes confer somewhat different or enlarged powers, sometimes deal with matters, for which the Act makes no provision. The Govt has already in its order noticed several objections, & in my opinion, many of the other bye-laws are equally open to criticism, & I venture

4th May 1875

6 M

Re
Certain revised Municipal
Bye-laws proposed for the
Fredericton Municipality.

H. K. C.

16. 5. 75

The Honorable
Provincial Secretary

Will be pleased to advise as
regards the accompanying
Orders in Council dated 26th
April 1875, by the Financial
Department.

Secretary
Govt. Office

Minutes (1875) Dept.
(Great Northern Railway)
Proceedings of the
Board of Railway

Dated 8th July 1875
Depos 6 — 11 —
Rec'd 10th —

No 162

Seeing no objection to the adoption of the rules providing for Dept of Public Works in Case of Local Fund Railways regarding Grant of Travelling allowance &c when they have been Imposed thereon

No 146

9 M 16

Jun[e] 1875 Bell

Solicitor

The Advocate Comp[y]

Dated 16.
Recd 17[th] May 1875

Answered 18/5/80

Opinion on the
Revised Munici-
pal By-laws
prepared for the
Fredericton Mu-
nicipality

No 139

4 M

Govt. of {187 } Madras.

To

Dated
Read } 187 . No.

Nos.

Submitted
to the Meeting of the
Municipal Council

Govt. of 1878 Madras.

Municipal

G.O. 20 July 1878 No. 1509

Nos. 139-40

Municipal Bye-laws

Order to Genl. as to
framing certain Bye
laws proposed for the
Municipality
Municipal
City, communicated to
the Municipality Com
missioners of that
Municipality. All
the Bye laws heretofore
sanctioned for any
Municipality to be
Submitted