M.R.O. 1—50,000—18-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	469	**Press** Mis.
212-213		
Dated	27. 3.	**19** 1886

6/9

Not to be folded or roughly handled

No. 212. Read the following letter from the Inspector General of Police, to the Secretary to Government, Revenue Department, Fort Saint George; dated Madras, 3rd March 1866, No. 362.

I beg to submit some correspondence forwarded to me by the Renter of the Shevagunga Zemindary, with a letter from himself, on the subject of Police aiding his subordinates in distraining for rent.

2. I have circulated it to Collectors and Magistrates. I feel quite assured that they will not fail to see the door which the law opens for the worst kind of oppression.

3. Mr. Fischer claims the right of calling out the Police of the nearest station to support distraints, without the intervention of a Magistrate or Collector.

4. Most rural Police stations are in charge of a Deputy Head Constable on ten Rupees per mensem, and I must not conceal from Government that, if the law is carried out as it now stands, terrible corruption will be the result in Zemindaries, and the Police must rapidly become the detested supporters of unscrupulous and oppressive Zemindars' Native Agents.

CONFIDENTIAL.
No. 319.

To the Magistrate of

Sir,

I beg to circulate the accompanying correspondence, and solicit your advice on the matter.

I admit that I anticipate very great difficulty in carrying out the law especially in Zemindaries. The thing will assuredly lead to much corruption, and probably oppression supported by the Police.

2. I hesitate to make any change in the Departmental order, without the advice and consent of the Collector and Magistrate.

I have, &c.,
(Signed) W. ROBINSON.

Madras, *27th February* 1866.

From J. FISCHER, Esq., Agent and Manager, Shevagunga Zemindary, to the Inspector General of Police, Madras; dated Madura, 6th February 1866.

I have the honor to request your kind consideration to the following facts, rendered necessary by the enactment of the Rent Recovery Act (Act No. VIII of 1865).

In connection therewith, I have also the honor to forward the accompanying correspondence to which, too, I request your kind attention, viz:—

(1.) Letter from the Tahsildar of Vanamadurai to me, dated 24th January 1865.

(2.) Letter from me to the Sub-Magistrate, dated 30th January 1865.

(3.) Letter, in reply, from the Sub-Magistrate to me, dated the 11th February 1865.

It will be observed by this correspondence that I complained that the Police did not render us the assistance which the then law (Section 20, Regulation XXVIII of 1802) gave us a right to expect from them.

The Sub-Magistrate, in reply, sent me a copy of your order to the Police, dated 9th May 1860, No. 18, on a reference to you as to whether "the Constabulary may be called on, under the Section quoted above, to aid in the distraint of property for arrears of rent."

Your order is to the following effect—"when called on for aid, the Police Officer should direct the applicant to apply, if he anticipates disturbance, to the nearest *Magistrate*, on whose written order, only, the Constabulary will act."

Regulation XXVIII of 1802 has now given place to Act No. VIII of 1865, and it is to the following passages in Sections 19, 20, 43, and the latter part of 78 of this Act, which I have under-scored, I beg to entreat your kind consideration.

19. "Persons authorized to distrain for arrears of rent *may apply to the nearest Police Station for such assistance as may be necessary to prevent any breach of the Peace, and the authority to whom such application is made shall depute one or more Police Officers to be present at the time of such distress, and it shall be their duty to prevent resistance or breach of the Peace,* and also to give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon if required."

29. "When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, *such distrainer shall represent the same to the Officer in charge of the nearest Police Station. On such representation, the Officer in charge of the said Station shall send a Police Officer to the spot, in the presence of whom* the distrainer may force open the outer door of such dwelling house except the Zenana. *The distrainer may also, in the presence of the Police Officer,* after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public) enter the Zenana apartments, for the purpose of distraining the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants."

43. "The warrant *shall be entrusted to some Officer of Police, who shall serve it* in the manner laid down in Section 39 of this Act. When no appeal shall be preferred to the Collector within 15 days after service, or when an appeal has been preferred and decided against the defaulter, and when the amount named in the warrant is not discharged, *the Police Officer shall place the person who has procured the warrant in possession.*"

78. "Provided, also, that no action lie against any Revenue Authority for issuing such warrants as are mentioned in Sections 41 and 45, where the necessary statement has previously been made, even though such statement should prove to be false; *nor in any case against a Police Officer who executes any warrant, or assists in any process permitted by this Act, when directed to do so by an authority whom he is bound to obey.*"

It would thus appear from Sections 19 and 29, that, in the event of a breach of the peace being apprehended, application need not be made to the nearest Magistrate, but to "*the nearest Police Station,*" and that the *Officer in charge of the said Station is at liberty,* of his own accord, and without the intervention of the Magistracy, *to render such assistance as may be required of him;* the presence of the Police being obviously necessary not only to prevent resistance of breach of the peace, but "also to give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereupon if required.

Section 43 gives to the *Police Officer* entrusted with the warrant alluded to in Section 42 the power to place the person who has procured the warrant in possession of a defaulting ryot's lands.

And Section 78 provides that no action shall be against a Police Officer who executes any warrant or assists in any process permitted by this Act, when directed to do so by an authority whom he is bound to obey.

It has already been seen that, under Section 19, *the authority at the nearest Police Station to whom the application for assistance is made,* is the authority who is required to "depute one or more Police Officers to be present at the time of distress"; and that under Section 29 *the Officer in charge of the nearest Police Station is the* authority who is required "to send a Police Officer to the spot for the purpose alluded to in this Section." The warrant under Section 43 is from a competant authority, *the Collector,* so that in each of these three instances we have an authority directing whom a Police Officer is bound to obey.

Such being the clear and explicit requirements of Act No. VIII of 1865, I have the honor respectfully to request that you will be so good as to modify the terms of your Circular Order dated 9th May 1860, and lest there should still be any doubts upon this point, to issue another in accordance with the provisions of the present law.

Proceedings of the Madras Government, Judicial Department,
27th March 1866.

No. 15.

Translation of Urzee from KRISTNA REDDY, *Tahsildar of Vanamadurai.*

To

J. FISCHER, Esq., Agent and Manager, Shevagunga Zemindary.

Agreeably to Circular Order, No. 4, of the 17th instant, I applied, on the morning of the 20th instant, as the law directs, to Angamutu Pillai, Deputy Commissioner of Police of the Vanamadurai Station, requesting him to assist me in distraining the moveable property of Subien, an inhabitant of the village of Papaumadai of this Taluq, for the money due to the Sirkar by him, as the man is known to be a riotous character. He replied that he could not render any assistance, unless on the order of the Sub-Magistrate.

Were any dispute to arise at the time of distraining according to law, and if no Police were present, I would be required to communicate with the Sub-Magistrate for his orders to obtain Police aid. Under these circumstances, I cannot conceive how the riot could be stopped, and the business carried on. If this plan is resorted to on every such occasion, much inconvenience and great delay would be the result.

I request, therefore, that you will be pleased to write a letter to the Magistrate to issue orders to the Police, directing them according to law to assist me whenever I require their aid, without special orders.

(Signed) KRISTNA REDDY,
Tahsildar.

24th January 1865.

From J. FISCHER, Esq., Agent and Manager, Shevagunga Zemindary, to M. R. R. RAGAVIENGAR, Sub-Magistrate of Shevagunga; dated Shevagunga, 30th January 1865, No. 18.

Enclosed, I have the honor to send you copy of an Urzee that I have received from the Tahsildar Vanamudurai for your kind consideration. I would beg to submit that the Police have acted in ignorance of their duty, and I would feel extremely obliged to you if you would correct the error, and direct the Police to render us the assistance that the law gives us a right to expect from them. In the present state of the grain market—such ebullition on the part of the ryots is to be expected; but it is to be hoped the law will not deny us that protection and redress which it is its object to secure to us.

We have every desire to be lenient, nay even liberal to our ryots; but, at the same time, we must be careful of those means which will enable us to serve them as well as ourselves.

From M. RAGAVIENGAR, Sub-Magistrate of Shevagunga, to J. FISCHER, Esq., Agent and Manager, Shevagunga Zemindary; dated Shevagunga, 11th February 1865, No. 4.

In acknowledging the receipt of your letter of the 30th ultimo, I have the honor to refer you to the following revised Police Circular Memorandum, No. XVIII of 1860, which I hope will satisfy you that the Police acted right.

POLICE ORDER.

No. XVIII, *9th May* 1860.

The Superintendent of the District asks "whether the Constabulary may be called on "under Section 20* of Regulation XXVIII of 1802, to aid at the distraint of property for arrears "of rent."

When called on for aid, the Police Officer should direct the applicant to apply, if he anticipates disturbance, to the nearest Magistrate, on whose written orders only, the Constabulary will act.

(Signed) W. ROBINSON,
Inspector General of Madras Police.

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* Distraint.

Proceedings of the Madras Government, Judicial Department,
27th March 1866.

Transferred to the Judicial Department.

(Signed) J. GROSE,
Ag. Under Secy. to Govt.

6th March 1866.

No. 213. ORDER THEREON, 27th March 1866, No. 449.

The Governor in Council is of opinion that the construction put by Mr. Fischer upon the Sections of the Rent Recovery Act, referred to in the correspondence submitted with the foregoing letter, is correct. The present law does not materially differ from the old law, Regulation XXVIII of 1802, Section 20, under which, in all cases in which resistance was anticipated, persons authorized to distrain were to apply direct to the Darogah of Police, and not through the intervention of the Magistrate.

2. The Inspector General should see that all applications made to the Police for their assistance in distraints, and the proceedings taken thereon by Police Officers, are duly reported to the District Superintendents, and any irregularities promptly noticed. If this is done, the Governor in Council does not anticipate any serious inconvenience from the operation of the new law. It is to be borne in mind that under the new law, as under the old, the person applying for the deputation of a Police Constable, to be present at the attachment of property about to be distrained for arrears of rent, must be in a position to declare that he has reason to expect resistance. It is not to be supposed that the presence of a Police Constable will be required in every case of distraint.

3. The Governor in Council is of opinion that Mr. Robinson should have addressed Government on the subject adverted to in the foregoing letter, before communicating to the several Magistrates, by a Circular letter, his opinion as to the probably oppressive character of one of the provisions of a law passed by the Government, and assented to by the Governor General, after very mature consideration.

(True Extract).

Chief Secretary.

To the Inspector General of Police.
„ Revenue Department.
„ Magistrate of

Exd. J. H. Burns.

Judicial Department

№ 509.

From the Inspector General of Police
dated 3d March 66.

For orders

Mr Robinson has a somewhat oppressive style of writing — and it would I think have been better if instead of sending a circular to all Magistrates, he had at once applied to Govt and left them to consult the Magistrates privately if they saw occasion —

I don't see what is to be done — The law seems to me to be as Mr Fischer states — And it

document differ materially from the old law RXX4111. 1802 SXX under which application was made to the Police — originally to the Deputy of Police — direct but through the intervention of the Magistrate at that time the Tillock Judge —

The Inspector first made Enquiries that the application to the Police for their assistance in distraints and the proceedings of the Police Officers thereon are duly reported to the District Superintendents and any irregularities promptly rectified — by the Police

(4)

Magistrate to the Inspector & Deputy Superintendent of Police complained.

By Sect 16 Act VIII. 65 any person refusing or neglecting to pay any rent within 10 days after demand may be sued & all Collectors who can make him pay on application to the Collector or Deputy Collector in charge of the division in which the defaulter resides.

JP

The Inspector of Municipal Police has been beyond his powers in placing himself without authority from Govt., in "Confidential" communication with the Inspectors of Police in regard to the probable operation of a law passed by Govt. sanctioned by the Legislature, after very mature consideration. and I am of opinion that his tendency to pass his Govt. should be repressed. When the Municipal Police depart from Municipal,

generally understood and I think was the intention of both, that the magistracy, as also the Police, should have no connection whatever with the Police, except in using the agency for working out the magisterial powers. I am satisfied that the confidence of the native public in both the magistracy and Police will be materially diminished when information - and cooperation information - get about, that the two bodies are in direct confidential communication as to how they are to give effect to any law or part of a law. - Besides, the Inspector General's letter to the magistracy is a sort of pleading. It does not simply ask for "advice" as I feel the magistracy are entitled to from the Inspector General without appeal and without fear of being blamed from both, but it indicates very clearly how the Inspector General views the law & how he may draw the magistracy into an acceptance of his views - Mr Robinson did, I consider, he told that he has been out of order in this matter

As regards the operation of the law now suspended I the I.G, I agree with Mr Ryan that there is no material difference between the old & the new one - It occurs to me, however, that the words in Section XX Reg 28 of 1802, must be read as meaning, that the person obliging the detention of a police constable

to be present at an attachment of property about to be distrained for arrears, should be in a position to declare that he expects resistance - otherwise, the words of the new & the old law, would be the same. - If, then, my supposition be correct, it would in many simple cases of distraint that police constables would be called away from their stations and much of the utility of the I. General's regulations of superintendency & assistance, disappear.

at any rate, I think the I.G may well wait a little, & observing carefully the operation of the new law, make a fresh report, when, from actual returns, he may cause for stating that the efficiency of the police force is seriously impaired & the call made on them for assistance in carrying out - Some measures.

12 March 1866

J.D.R

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following
letter from the Inspr Genl
of Police.
Rec'd entd 3d March 1866.

C. Order thereon 27 March 1866 R. 449.

The Governor in Council
is of opinion that the
construction put by Mr.
Fischer upon the sections
of the Rent Recovery Act
referred to in the corres-
pondence submitted with
the foregoing letter is correct.
The present law does not
materially differ from the
old law, Regulation XXVIII

of 1862 Section XX, under which in all cases in which resistance was anticipated, persons authorized to distrain were to apply direct to the Darogah of Police and not through the intervention of the Magistrate.

2. The Inspector General should see that all applications made to the Police for their assistance in distraints and the proceedings taken thereon by Police officers should be duly reported to the District Superintendents, and any irregularities promptly noticed. If this is done the Governor in Council does not anticipate any serious inconvenience from the operation of the new law. It is to be borne in mind that under the new law, as under the old, the person applying for the deputation of a Police Constable to be present at the attachment of property about to be distrained for arrears of rent, must be in a position to declare that he has reason to expect resistance. It is not to be supposed that the presence of a Police Constable will be required in every case of distraint.

3. The Governor in Council is of opinion that

that M. Robinson should have addressed Government on the subject adverted to in the foregoing letter before communicating to the several Magistrates by a Circular letter his opinion as to the offensive character of a Law passed by the Government and assented to by the Governor General after very mature consideration.

To the Chief Secretary of Police
Revenue Department
&c &c &c

dated 29/5

Judicial 1866. Department.

No. 449.

PROCEEDINGS OF GOVERNMENT.

Dated 27th March 1866.

Press No. 2755, G. M.—14-11-65—500.

212-213.