

2. Date of issue
3. Initials of Referencer

M.R.O. 1-32,400-29-11-20

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.

203

Press
~~Mis.~~

Dated

25-2-

1867.

Not to be folded or roughly handled

1/2

*Proceedings of the Madras Government, Public Department,
25th February 1867.*

No. 129. Read the following letter from G. A. BALLARD, Esq., Magistrate of Malabar, and President of the Municipal Commission, Cochin, to the Chief Secretary to Government, Fort Saint George; dated Calicut, 25th January 1867, No. 5.

I have the honor to forward copy of a letter from the Vice-President of the Cochin Municipal Commission, covering a proposed Bye-law, for the introduction of which in Cochin the sanction of Government is requested.

2. Dr. Whitton states that, without a penalty of this nature, people who should take out licenses will not come forward.

3. I do not know whether a penal clause under this head was purposely omitted when the Bill was prepared. I observe there is no special penal provision under Sections 44 to 47 of the Madras Municipal Act of 1865 (IX of 1865 Madras).

4. But although I cannot say that difficulty has as yet been experienced here, in Calicut, or as far as I know in the other Municipalities in Malabar, I do not see why special penalty should not be enacted for default under these Trades sections, when penalties are provided for with regard to carriages, carts, &c.

5. I, therefore, beg to recommend the Bye-law for sanction, though I would suggest that the maximum penalty be fixed at a much lower amount than that proposed in the Bye-law.

From Assistant Surgeon G. E. WHITTON, M. A., Vice-President of the Municipal Commission, Cochin, to the President of the Municipal Commission, Cochin; dated Cochin, 22nd January 1867, No. 19.

With reference to my letter, No. 16, of the 11th instant, I have now the honor to inform you that I find it will be impossible to assess, Arts, Trades, and Professions, unless there is some penalty attached to the carrying on the same without license. Houses and lands have only to be numbered and assessed; there is no difficulty in either of these cases; but in the case of trades, how is it possible that a list can be made up as laid down in Section 49?

2. The people certainly will not voluntarily come forward and give us their names; moreover, I understand that many are holding back, knowing full well that we cannot compel them to take out a license.

3. The subject was brought before the usual weekly meeting held yesterday, when it was resolved to forward the accompanying Bye-law, with a view of obtaining the approval and confirmation of the Governor in Council for the introduction of the same.

BYE-LAW.

Every person who shall within the town exercise any of the Arts, Professions, Trades or Callings specified in Schedule A annexed to the Towns' Improvement Act X of 1865, shall, in respect thereof, within one month from the date on which the approval of the Governor in Council shall have been notified in the *District Gazette*, and shall thenceforward, on or before the 1st day of May and the 1st day of November in each year, send to the office of the Commissioners a statement in writing, signed by him, containing a description of the Art, Profession, Trade or calling under which he is liable to be assessed, and receive a license for the same.

2. If any person exercising any Art, Profession, or Calling, as aforesaid, shall not have duly taken out a license under the last preceding section, he shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty Rupees, and to a further penalty not exceeding ten Rupees for every day, after conviction for such offence, during which the said offence is continued.

Proceedings of the Madras Government, Public Department,
25th February 1867.

No. 130. ORDER THEREON, 25th February 1867, No. 203.

With the foregoing letter, the Magistrate of Malabar, in his capacity of President of the Cochin Municipal Commission, submits for the sanction of Government a draft Bye-law, proposed by the Vice-President of the Commission, rendering liable to fine any person who, being liable under the provisions of Act 10 of 1865 (Madras) as exercising any Art, Profession or Calling specified in Schedule A of the Act, shall fail to take out the necessary license within a notified time.

2. The Government cannot sanction the proposed Bye-law, it being clearly the intention of the Legislature that the Commissioners shall take the initiative in regard to the imposition of the Tax on Arts and Professions. Moreover, the imposition of such a penalty as that proposed by Dr. Whitton, and approved by Mr. Ballard, is evidently beyond the scope of a Bye-law, and could not be enforced without special legislative enactment.

3. The Government do not doubt that the difficulty apprehended by Dr. Whitton will be obviated if it be clearly understood that, after the completion of the list which the Commissioners are by Section 49 required to prepare, all persons who may have wilfully obstructed the compilation of the necessary information, or refused to state fairly and openly the particulars which they ought to furnish, will be assessed on such information as may be available, and the amount realized under the authority vested in the Commissioners by Sections 72 to 76, the unfairness or excess of assessment, if such exist, being clearly due to the neglect or recalcance of the persons so liable.

(True Extract).

To the Magistrate of Malabar.

Exd. J. H. Burns.

No. 14.

(Copy)

Municipal Office
Cochin 22nd January 1867

To

G. E. Whitton Esquire
Vice President Municipal Commission
Cochin

To
G. A. Ballard Esquire
President Municipal Commission
Cochin

Sir,

With reference to my letter No. 16 of the 11th Inst. I have now the honor to inform you that I find it will be impossible to assess arts, Trades & Professions, unless there is some penalty attached to the carrying on the same without license: houses & lands have only to be numbered and assessed: there is no difficulty in either of these cases, but in the case of trades how is it possible that a list can be made up as laid down in Section 49.

The people certainly will not voluntarily come forward and give us their names; moreover I understand that many are holding back, knowing full well that we cannot compel them to take out a license.

The subject was brought before the usual weekly meeting held yesterday, when it was resolved to forward the accompanying Bye law with a view of obtaining the

approval & confirmation of the Governor in Council
for the introduction of the same.

I have &c.

Signed/ George Whetton M.B.

Vice President. Municipal Commission
Bachin

Bye Law.

Every person, who shall within the town
exercise any of the arts, professions, trades
or callings specified in Schedule A annexed
to the Towns improvement Act X of 1865 shall
in respect thereof within one month from the
date on which the approval of the Governor
in Council shall have been notified in
the District Gazette and shall thenceforward
on or before the 1st day of May and the 1st
day of November in each year, send to the
office of the Commissioners a statement
in writing signed by him containing a des-
cription of the art, profession, trade or
calling under which he is liable to be assessed
and receive a license for the same.

If any person exercising any art profession
or calling as aforesaid shall not have duly
taken out a license under the last preceding
section he shall on conviction before a
Magistrate, be liable to a fine not exceeding

twenty Rupees and to a further penalty not ex-
ceeding ten Rupees for every day after conviction
for such offence during which the said offence
is continued.

(True Copies)

Garnicaud
Magistrate & President
M. C. Bachin.

No 5

Malabar Magistrate's Court
Calicut 25 January 1867

From

G. A. Ballard Esquire

Magistrate of Malabar & Resident M. C.
Cochin.

To

The Honble A. J. Arbuthnot

Chief Secretary to Government

Sir,

I have the honor to forward copy of a letter from the Vice President of the Cochin Municipal Commission covering a proposed bye law, for the introduction of which in Cochin the sanction of Government is requested.

Dr Whiston states that without a penalty of this nature people who should take out licenses will not come forward.

I do not know whether a penal clause under this head was purposely omitted when the Bill was prepared. I observe there is no special penal provision under Sections 44 to 47 of the Madras Municipal Act of 1865 (IX of 1865, Madras).

But although I cannot say that difficulty has as yet been experienced here in Calicut or as far as I know in the other Municipalities in Malabar, I do not see why a special penalty should not be exacted for default under these Trade sections, when penalties are provided for with regard to carriages, carts &c.

1867

in a letter from the Magistrate
to the Honble A. J. Arbuthnot
dated 25 January 1867

Copy of letter from the
Vice President of the
Cochin Municipal Commission
dated 22 January 1867
No 26 - Suburban
Calicut 24.1.1867

I therefore beg to recommend the Bye Law
for sanction though I would suggest that the
maximum penalty be fixed at a much lower
amount than that proposed in the bye law.

I have the honor to be

Sir,

Your most obt. servant

Samuel M
Magistrate.

Public Dept.

Memorandum for orders.

Read Letter from Magistrate of Malabar (Here enter 25 Jan'y 1867 No 5)

It appears to me very questionable whether the proposed Bye-law can be sanctioned. It is clearly the intention of the Act that the Commissioners, and not the persons to be taxed, shall take the initiative in regard to the imposition of the tax on Arts, Professions, Trades and Callings.

Yes. viz. by which the matter of the second proposed bye law

noted 5 March

Recd. 25th Jan'y 1867
Public 1067 Sept 1

Mr 1

Mr 203
The Magistrate of Malabar

The Chief Secretary to Govt

Dated 25 January 1867
No 2 28 m 3067

205
No 111 Sub. 1

Requesting sanction for the introduction in Malabar of a Bye-law proposed by the Vice President of the Indian Municipal Commission.

is beyond the scope
of a by law and
could be accom-
plished only by
special legislation.
on a strong pro-
posed in the case
of each by Sec.
68 of L. A. C.

I concur in thinking
that the course proposed by Mr. Whetton
& Mr. Ballard is beyond the scope of a
mere by law.
But, I also think, that much advising
made about nothing. The Cochise men
have an establishment through which
the test mentioned in S 49 could surely be
prepared, parties holding back being strong
that is, once a paper, if they willfully obstruct

the preparation of the test by not stating
specifically & fairly such particulars as they
^{ought to} ~~be required~~ to furnish in reply to queries put
to them. If when a paper the rate due
is not paid, it rests with the man found
breaching it under the power given him by
Sections 72 to 76 of the Act. I feel satisfied
that a great illumination of what the M. Com.
can have to do of the parties liable to be
rated should do what they should do, would
soon remove the difficulty on w. Mr. Whetton's
letter has arisen. W. H.

I enclose the opinion of the
by his L. G. Craft & Mr. Phillips
A.

Public Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the Magistrate of Malabar.
(Recd. under 25th January 1867 No. 5)

1st Session 25 Feb. 1867 No. 203.

With the foregoing letter
the Magistrate of Malabar
in his capacity of President
of the Cochin Municipal
Commissioner submits for
the sanction of Government
a draft Bye-Law, proposed
by the vice President of
the Commission, rendering
liable to fine any person
who being liable under
the provisions of Act X
of 1855 (Madras) as exercising
any Art, Profession or Calling
Specified in Schedule A of
the

the Act, shall fail to take
out the necessary license
within a notified time.

2 The Government cannot sanction the proposed By-Law, it being clearly the intention of the Legislature that the Commissioners shall take the initiative in regard to the imposition of the Tax on Arts and Professions.

Mr. Monroe reserves
that the imposition of the ^{high} ~~the~~
penalty ^{on him} proposed by Dr. Whetton
and approved by Dr. Ballou,
is evidently beyond the
scope of a Byg Law, and
could not be enforced without
special legislative enactment.

4 The Government do not doubt that the difficulty ~~expressed by~~ ⁱⁿ the ~~the~~ will be obviated if it be clearly understood that after the completion of the list which the Commissioners

and by section 49 required to prepare, all persons who may have wilfully obstructed the compilation of the necessary information, or refused to state fairly and openly the particulars which they ought to furnish, will be assessed on such information as may be available and the amount realized under the authority vested in the Commissioners by sections 72 to 76, the unfairness or excess of assessment, if such exist, being clearly due to the neglect or recalcance of the persons liable.

Cy

hint of March

Public 1867. Department.

No. 208

PROCEEDINGS OF GOVERNMENT.

Dated 25 January 1867.

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