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MADRAS RECORD OFFICE.

Government of Madras.

Police DEPARTMENT.

C.O. No. <i>1708</i>	Press Mis.
Dated <i>14-12-</i> 19 <i>1869</i>	

Not to be folded or roughly handled

14th December 1869.

No. 58. Read the following letter from the President of the Municipal Commission, Trichinopoly, to the Chief Secretary to Government, Fort Saint George, dated Trichinopoly, 11th November 1869, No. 39.

In forwarding Extract of Proceedings of Municipal Commissioners at yesterday's Meeting, I have the honour to request that sanction may be granted for the under-mentioned bye-law, to facilitate the collection of the monthly rents of the market stalls. The tradesmen, who held these stalls, are aware that we have no summary way of collecting the very moderate amount of rent which the Commissioners have fixed; and thus make all sorts of frivolous excuses to delay payments; thereby taking up the time of our servants, and complicating our accounts.

" Extract from the Proceedings of the Municipal Commissioners for the Town of Trichinopoly, at a Meeting held on the 10th November 1869.

* * * *

" Resolved that the following bye-law be submitted for sanction of Government, as the stall-keepers in the market delay paying their moderate rate of monthly rent:—

" BYE-LAW.

" Any bazaarman in the market not paying his rent due for the preceding month before the 10th of the current month will be deemed to be in arrears, and the Commissioner in charge of the market will be authorized to realize the amount due by distress and sale of the defaulter's property within the market premises."

No. 59. ORDER THEREON, 14th December 1869, No. 1708.

The Government are unable to sanction the proposed bye-law which appears repugnant to the Act.

2. It is intended to provide a summary process of distress and sale for the recovery of market rents, that is to say, the interest on the Commissioner's investment. The Act only permits the Commissioners to use process of distress and sale for the recovery of certain rates and taxes due to them under the Act; but compels them to sue in a Civil Court even for the recovery of money expended from the Municipal Fund in certain sanitary and other works, on default by the person liable to execute them. *A fortiori* summary process for the enforcement of a demand such as that under notice should be refused.

3. It further appears to the Governor in Council that the objects which the Commissioners have in view may be attained by less extreme measures. If the market stall-rents are exacted in advance, and if in addition a deposit of a month's rent to be forfeited in case of non-payment of the monthly rent at the proper time, be required from renters of stalls, the Government do not doubt that reasonable punctuality would be secured.

(True Extract.)

Chief Secretary.

To the President of the Municipal Commission, Trichinopoly.
Exd. J. Wright.

Memorandum on a letter from the President
of the Municipal Commission Trichinopoly
No. 39 dated 11th November 1869.

In this letter the President requests the sanction of Government under section 145 of Act of 1865 (Madras) for the bye-law which in the margin, which has been passed by the Commissioners.
"Any bazar man in the market not paying his rent due for the preceding month before the 10th of the current month, will be deemed to be in arrears, and the Commissioner in charge of the market will be authorized to realize the amount due by distress and sale of the defaulter's property within the market premises."

2. It is submitted that this bye-law should not be approved by Government. In the first place the erection of markets intended to convey the meaning expressed by "rent due for any month before the 10th of the month following." "Current month" means the month in which the bye-law is dated or issued.]

the Act, and enumerated in section 25; and at least one object of the section is to realize a revenue. But in the Act, whenever the expenditure of municipal funds is authorized for carrying out sanitary measures or improvements, within the scope of section 25, or

GOVT. OF 1869

PUBLIC.

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THE PRESIDENT OF THE
MUNICIPAL COMMISSION,
Trichinopoly.

Dated December, 14th.

Recd.

Encl.

G. O., 14th December 1869, No. 1708.

RECEIVED
NOV. 28. 1869.

Declining to sanction the proposed bye-law to facilitate the recovery of market-rents.

default of persons on whom
the obligation is cast, ^{it is} expressly
provided that such expense
shall be recovered as a debt
due to the Commissioners; and
by section 144, the recovery, ^{under}
the same is, under Rs 20, is to be
by suit in a civil court. If
recovery by summary process
of distress and sale is not
allowed in such cases as these,
it ought a fortiori to be refused
in the present case.

3. In the second place, there
is no precedent for such a bye-
law as that now proposed. In
certain cases ^{have been sanctioned} by laws permitting
the recovery of expenses, incurred
for the purpose of General
Conseivancy or public safety,
in the same way as rates
on houses &c. but even this
process, requiring bills, notices
to defendants & extending over
17 days at least, is not so

Vide sections 95, 96, 102, 104, 105,
122, 126, 131, 132.

Even in these cases the recovery is
not by means of distress & sale by
the Commissioners' warrant, but
through a Magistrate, in the same
way as fines for offences & penalties
are levied - see 137-139.

Vide byelaws marked on
pages 5, 6, 11, of the tabular
statement of byelaws put up.

Summary as that for
which sanction is now
asked.

4. In the third place, the objects
which the Commissioners
have in view appear attainable
by less extreme measures.
If stall rents were required
to be paid in advance, and
if it were made a condition
of the letting that on failure
to pay punctually, immedi-
ate ejectment should ensue,
the desired end would probably
be gained. Further a deposit
of a month's rent, to be for-
feited in case of non-payment
of the monthly rent at the
proper time, might be required.
Conditions such as these
were exacted in letting the
tolls' contract at Nollon
and the instalments were
invariably paid with the
utmost punctuality.

I agree in the view
taken in this memo.

A. A.
W. M.

M. G. C.

Public Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

From the President of the
Municipal Council Trichinopoly } New enter 11th Nov/69 No. 39.

Order thereon No. 1708-14 Dec/69.

Bye-Law.

"Any Bazaarman
in the market not paying his
rent due for the preceding month
before the 15th of the current
month will be deemed to be

in arrears, and the Commissioner
in charge of the market will be
authorized to realize the amount
due by distress and sale of
the defaulters property within
the market premises."

are unable
The Govt. ~~Executive~~
to sanction the proposed
by-law which appears re-
-frugnant to the Act.

2. It is intended
to provide a summary process
of distress and sale for
the recovery of market rents,
that is to say the interest
on the Commissioner's in-
vestment. The Act only
permits the Commissioners
to use process of distress and
sale for the recovery of
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certain rates and taxes due to them under the Act; but compels them to sue in a Civil Court even for the recovery of money expended from the Municipal Fund in certain sanitary and other works, on default by the person liable to execute them. A fortiori summary process for the enforcement of a demand such as that under notice should be refused.

3. It further appears to His Excellency the Governor in Council that the objects which the Commissioners have in view may be attained by less extreme measures. If the market stall rents are exacted in advance, and if in addition a deposit of a month's rent to be forfeited in case of ~~non~~ non-payment of

of the monthly rent at the proper time; be required from renters of stalls, the Govt. do not doubt that reasonable punctuality would be secured.

D.C.

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To the Presd. of the Muni. Comm.
Municipality - Decr 1872

Handwritten notes at top of page, partially illegible.

Vol. of 1869

Public

To

*The President of the
Mount Vernon
Association*

Date Dec 14 }
Recd. 1869, No. 19028

Nos. 58 & 39

*Resolving & sanction
the proposed but-but
of President the Secretary
of Mount Vernon*