

Educational (1895) Department.

ORDINARY MS.

G.O., No. 222

Dated 13th Mar. 1895

[Despatch Abstract.]

LAWRENCE ASYLUM PRESSES

Communicating to the Committee of the Lawrence Asylum and to the Directors of the -- Government Solicitor's opinion on certain points in connection with the leasing of the presses.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[G
II]
5,000-20-0-94.

ORDINARY, MS.

<i>Educational</i> DEPARTMENT. G.O., DATED <i>13-3-95</i> No. <i>222</i>

When given for copying.

[Despatch Abstract.]

Lawrence Asylum Presses

READ AGAIN ORDER OF GOVERNMENT, DATED
189, No., MISCELLANEOUS.

ENCLOSURES.

CURRENT No.

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL (not paged).

N.B.—

- A — Copy in full.
- B — Not to be copied.
- P — Copy abstract only.
- Q — Copy heading only.

CURRENT NO. 202

Director of Public Instruction.

Lawrence Asylum.
12th February 1895.

From

The Vice-Chairman
Cotacamund Lawrence Asylum

To
The Chief Secretary to Government,
Fort St. George.

Sir.

I have the honor to submit
the following Resolution of the
Lawrence Asylum Committee passed
at a meeting held on the 8th instant.

I. " 2. The Committee (Trustees) of the
" Lawrence Asylum Press are of opinion
" that the course suggested by Government
" in its Proceedings of the 31st January 1895,
" 1079, Educational, is that which would
" most conduce to the interests of the
" Lawrence Asylum, provided that
" the following points be first satis-
" factorily cleared up.

3. At the meeting held on the 5th Jan'y
" 1895, the following Resolution was
" passed by the members of the
" Committee (Trustees) present; viz—
" That the terms proposed by the
" Committee (Trustees) at its special
" meeting on the 21st December 1894,
" with the modifications contained in
" Mr. Taylor's letter, viz. that the deposit
" be Rs 10,000, and that the term of the
" lease be 10 years, be accepted."

" That the Principal Secretary
" to the Committee be directed to
" communicate to Mr. Chapman,

the resolution of the Committee (Trustees) regarding Mr. Taylor's letter, and to state that the proposal is going up to Government at once for ratification, with the request that such ratification may be vouchsafed at an early date."

4. The Secretary to the Committee accordingly, in his letter of the 8th January 1895, communicated this decision to Mr. Chapman, Solicitor to Mr. Taylor.

5. On the 28th January 1895, the Secretary to the Committee received the G.O. dated 25th January 1895, No 71, which contained the ratification of Government. This order (ratification) was not communicated to Mr. Taylor, or his representative, Mr. Chapman, and no action was taken on it prior to the receipt, on the 29th January 1895, of the telegram No 43, from Government, of that date, which telegram ran:—"Do not act on sanction to lease Press pending further orders", which orders (31st January 1895, No 79) were received on the 4th February 1895.

6. It is considered by some of the Trustees that it may possibly be held that the Committee (Trustees) are contracted to Mr. Taylor, since the ratification by Government of its acceptance of his proposal was received by the Committee (Trustees) before the telegram cancelling such ratification; although Government is not a party to the contract between the Committee (Trustees) and Mr. Taylor, and although its acceptance

" was contingent on the ratification of Government, which in the opinion of other members of Committee (Trustees) was never operative, since it was never communicated to the other party to the Contract.

" II. 7. Another point the Committee (Trustees) think should be cleared up is this:— The Trust deed is not before the Committee (Trustees). It is with the Government Solicitor. But it is probable that, ordinarily, each and every Trustee should consent: and the following Trustees were absent from the meeting of the 5th January 1895 (held during the Christmas holidays) and did not consent to the proposal to lease to Mr. Taylor, viz. W. J. D. Rees (Vice Chairman) Colonel Cummins (the officiating Deputy Adjutant General) and Mr. Winterton.

" The Committee (Trustees) desire that the Government Solicitor may be asked to forward a copy of the Trust deed for the use of the Committee (Trustees) and to give his opinion on the points raised."

I have the honor to be
Sir
Your most obedient Servant.

J. D. Rees
Vice Chairman
Botacamund Law

J. D. Rees

Confidential

Educational Dept.

Confidential

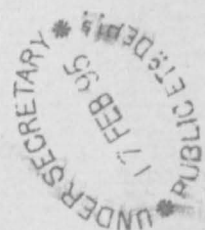
From

The Vice-Chairman
Dorcas and Lawrence Asylums.C
11

16 February 1895

Submitted to
Government
J. Duncan
Director of Pub. InstructionTo
The Chief Secretary to Govt.
Fort St George

No. 3174.

Dated. 12th February 1895.Recd. 17 Feb 95
Regd. 18 Feb 95

Encl. 19 February 1895, No. 334

Referred to the Government Solicitor
for opinion. G.O. dated 25th January
1895, No. 71 was despatched to the
committee in manuscript on the same
date and telegram No. 43 suspending
the operation of that G.O. was sent on
the 29th idem.

(By order)

A. B. S. S. S.
Under SecretaryLeasing the Lawrence Asylum Press
Requesting information
as to whether G.O. 25th Jan 1895
No. 71 has any force after
receipt of G.O. 31st Jan 1895
cancelling the ratification
of the lease in the former.

W.R.

ECCLESIASTICAL DEPARTMENT,

NUNGUMBAUKUM,

Madras, Feb. 20 1895.

No. 2037

From The Hon. J. Duncan
Director of Public Instruction
and THE VENERABLE W. WESTON ELWES, M.A.,

Archdeacon of Madras.

To The Hon. The Chief Secretary.

Sir,

In acknowledging the receipt of G.O. dated
25th Jan. 1895 No. 71 Educational, we have the honor
to draw the attention of Govt. to the fact that at the
meeting of the Lawrence Asylum Committee on the 21st
Dec. 1894 when a certain resolution concerning Mr. Taylor
was passed. The Chairman & the Vice Chairman were absent,
& that at the meeting held on the 5th Jan. 1895 when
another resolution was passed the Vice Chairman &
A. R. Winkles Esq were absent.2. It seems clear from the Indian Trust Act
of 1882 that all Trustees must act together in dealing
with the Trust.3. We venture therefore to suggest that Government
be pleased to submit to the Advocate General the
question, whether the proceedings of those meetings with
reference to the L.A. Press are not null & void, owing
to the absence of some of the Trustees, who consequently
did not act together with the other Trustees in dealing
with the Trust.

We are, Sir,

Yours most obedient servants

J. Duncan

W. Weston Elwes, Archdeacon
of MadrasJ. Duncan
W. Weston Elwes

ECCLES. (1895) DEPARTMENT.

No. 2037

From
The Hon. Dr. Duncom.
Director of Public Instruction
And THE VENERABLE W. WESTON ELWES, M.A.,
Archdeacon of Madras.

To

The Hon.
The Chief Secretary

Dated Feb 20

Received 20

Rep 21

No.

SUBJECT.

Drawing the attention of Govt to the fact that at the meetings of the L.A. Committee on 21st Dec: 1894 & 5th Jan 1895. Certain of the Trustees of the L.A. were absent, & suggesting that the Advocate-General be asked whether the proceedings of these meetings are valid & void. as the absent Trustees did not act with the other Trustees in dealing with the Trust, as required by the Indian Trust Act of 1882

219
N
27-22-1895
End L No 360
Referred to the Government
Solicitor, in continuation of Endorsement
dated 19th February 1895, No 334.

(By Order)

John Davidson
for Under Secretary.

John David George
22 February 1895

To
The Government Solicitor
Madras

TO BE RETURNED
WITH REPLY.

Confidential

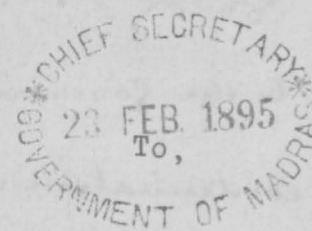
No. 98

CURRENT NO. 333

Madras 22nd February 1895.

From,

Ernest Barclay,
Government Solicitor,
Madras.



To,
The Chief Secretary to Government,
Madras.

Sir,

1. I beg to acknowledge receipt of your endorsement dated 19th instant No.334 upon a letter dated 12th idem No.3174 from the Vice Chairman Ootacamund Lawrence Asylum, to your address.
2. From this letter it appears that, on the 5th ultimo, it was resolved by the members of the Committee present at a meeting then held that the terms proposed by the Committee at its special meeting on the 21st December 1894 with the modifications contained in Mr Taylor's letter viz. that the deposit be Rs 10000 and the term of the lease be 10 years, be accepted, that the Principal be directed to communicate to Mr Chapman the resolution of the Committee regarding Mr Taylor's letter and to state that the proposal was going up to Government at once for ratification with the request that such ratification might be vouchsafed at an early date. This decision was communicated to Mr Chapman, Mr Taylor's Solicitor on the 8th January.
3. The first question is whether Mr Taylor's proposal to take a lease on the modified terms contained in his letter referred to in the above resolution, coupled with such resolution and its communication to Mr Chapman as Mr Taylor's Solicitor, constituted a contract. In my opinion it did not. Under the Indian Contract Act, when a person to whom a proposal is made signifies his assent thereto, the proposal is said to be accepted and a proposal, when accepted, becomes a promise and where, there is a consideration for the promise, it becomes a

contract or agreement. The communication of an acceptance is complete, as against the acceptor when it comes to the knowledge of the proposer but, in order to convert a proposal into a promise, the acceptance must be absolute and unqualified, there must be an absolute assent to the terms offered without qualification or condition and the least variation between the terms of the proposal and those of the acceptance will prevent the acceptance from converting the proposal into a promise. The acceptance of Mr Taylor's proposal was clearly a qualified acceptance in that it was subject to the ratification of Government and, that being so, there was no promise on the part of Mr Taylor and consequently no contract.

4. G. O. dated 25th January 1895 No. 71 ratifying the resolution of the Committee was despatched to the Committee on that date and received by the Committee on the 28th idem, but this ratification was not communicated to Mr Taylor or to Mr Chapman and, on the 29th January, Government telegraphed to the Committee not to act on the sanction to lease the Press pending further orders, which orders (contained in G O of 31st January No 79) were received by the Committee on the 4th February.

5. With regard to para 6 of the Vice Chairman's letter I do not think it could be held that the Committee contracted with Mr Taylor because the ratification by Government was received by the Committee before receipt of the telegram cancelling such ratification. Of course, if such ratification had been communicated to Mr Taylor the condition of the acceptance of his proposal would have been fulfilled and the contract would have been complete but, as the ratification was not communicated there was no unqualified acceptance of Mr Taylor's proposal and therefore no contract. I think Mr Taylor should be informed that Government has declined to ratify the Resolution of the Committee passed on the 5th January last and that his proposal cannot be accepted.

6. With regard to para 7 of the Vice Chairman's letter in which it is suggested that each and every of the Trustees would, in order to make a valid contract, have to consent thereto, Section 48 of the Indian Trusts Act II of 1882 provides that, when there are more trustees than one, all must join in the execution of the trust except where the instrument of trust otherwise provides. The only instrument of trust there is in respect of the Lawrence Asylum Press and its premises is the conveyance

from the Press Committee to the Asylum Committee and that contains no provision that any number of the Committee less than the whole number can deal with the property or otherwise act in the execution of the trust. It might however be held that, as the property was conveyed to the Asylum Committee upon trust for the Asylums, the Committee would hold it subject to its rules and regulations and, if such rules and regulations empowered a quorum to act and the resolution of 5th January last was passed by a proper quorum, such resolution would bind the Trustees who were not present at the Meeting at which the resolution was passed. On referring to the Rules however I see that, under Rule 13, a meeting of the Committee is to be held in the first fortnight of each month for the transaction of ordinary business and that three members shall form a quorum i.e. at such meetings, but the granting of a lease of the Press premises could hardly be called "ordinary business" and I am of opinion that the consent of all the Trustees would be necessary for that.

7. I will, in a day or two, forward a copy of the Conveyance for the use of the Committee.

8. I return the Vice Chairman's letter &

I have the honor to be,

Sir,

Your Obedient Servant,

James Pauling

Government Solicitor.

CURRENT No. 233.

Educational Deptt

From

The Govt. Solicitor.

No. 98

dated 22 }
Recd. 23 } February 1895.
Regd. 25 }

Lawrence Asylum Presses.

Opinion on certain points raised by
the Committee of the Lawrence Asylum
regarding the leasing of the — to Mr Taylor

W5
12/3

W2

CURRENT No. 252

No. 108

Madras 26th February 1895

From,

Ernest Barclay

Government Solicitor

Madras.

To,

The Chief Secretary to Government

M a d r a s.

Sir,

With reference to your endorsement dated 22nd Instant -
No. 360 and just received made upon a letter dated 20th idem No. 2037
from the Directors of the Lawrence Asylum Press to the Director of -
Public Instruction, I beg to point out that I advised on the question
there raised in my letter of 22nd Instant No. 98 para 6. If it be desi-
-red that the opinion of the Advocate General be obtained on the ques-
-tion I shall be obliged if you will have sent to me again the diffe-
-rent letters from the Lawrence Asylum Committee relating to the pro-
-posed lease of the Press and on which I have advised.

2. I return the letter of the Directors of the Lawrence Asylum
Press and

I have the honor to be

Sir

Your Obedient Servant

Ernest Barclay

Government Solicitor

CURRENT No. 252.

Est. Dept.

From

Court. Solicitor.

No. 108

Of: 26 } Feb 95
Rf: 26 }

Cuo. 219 Actd.

Law. Asylum Presses

Returns the letter of the Directors of the
— regarding ~~certain~~ the validity of certain
pros: of the Committee of the L. Asylum
at certain meetings when all the members
were not present.

CURRENT No. 247.

No. 103

CHIEF SECRETARY
15 FEB 1895
Madras. 25th February 1895
GOVERNMENT OF MADRAS

From,

Ernest Barclay,

Government Solicitor,

Madras.

to,

The Chief Secretary to Government,

Madras.

Sir,

In continuation of my letter of the 22nd instant
No. 98 I forward herewith copy of the transfer and assignment
dated 10th August 1894 of the Lawrence Asylum Press premises
from the Committee of the Press to the Committee of the Asylums.
I have not thought it necessary to annex to the copy deed a
copy of the plan annexed to the original Deed but I can fur -
-nish a copy if required.

I have the honor to be,

Sir,

Your Obedient Servant,

Ernest Barclay

Government Solicitor.

CURRENT No. 247

Encl. Sept.

From

The Govt. Solicitor

No. 103

Ap. 25 }
Ap. 25 } Feb 95

Encl. one

Forwards a copy of the transfer
deed of the Law Asylum Press premises from
the Committee of the Press to the Committee
of the Law Asylum.

Cnos 233+247

To await Govt. Solicitor's reply to
Encl. 922. 2. 95, No. 360.

1890-12-12-93.

W. DEPAGE

From

No. 202 of 16/2/95 from
D.P.J.

— 219 of 20/2/95 from
D.P.J.

— 233 of 22/2/95 from Govt. Sol.

— 247 of 25/2/95 from D.P.J.

Dated 252 of 26/2/95 from D.P.J. 189

FOR ORDERS.

In C. No. 202 the Committee
of the Lawrence Asylum
raise the questions whether

(1) the contract with
Mr. Laylor for the
lease of the Press
is, in law, completed

(2) the proceedings of
the Committee deciding
to lease the Press
were not invalid
by reason of the
absence of certain
of the members.

In C. No. 219 the Directors
of the Press raise the
second of the questions
raised by the Committee.

In C. No. 233 the Govt. Sol.
expresses the opinion that

(1) the contract with
Mr. Laylor was
completed & can
now be claimed;

(2) that the proceedings
of the Committee were
invalid for the
reason that all the
members were not
present at the
two meetings.

In C. No. 247 the Govt. Sol.

for the use of the Committee
a copy of the conveyance
to it of the property in
the Press.

Enclosed will also be found
a letter from the Archdeacon
of the Dean W. Grove.

The following order seems
sufficient

" Order 113 March 1895, No 222

The Govt. Sol^r's letter of
22 Feb 1895, No 95, will
be communicated to the
Lawrence Asylum Com^{tee}
& the Directors of the
Press.

The copy of the conveyance
furnished by the Govt.
Sol^r for the use of the
Com^{tee} will also be
forwarded to that body.

Lease of Lawrence
Asylum Press

28 1/3
W
16 Mar
JP
7/3/95

Attn & care

(For Order)

govt. solicitor
Directors of the Lawrence Asylum
Committee of the Lawrence Asylum
4/3/95 2 Mar 95

In this connection it is
worth noting that General
Innings dissented from
the Resolution of the
Committee approving the
Sale of the Press vide
p. 5 of G.O. of 1 Aug 1893, No
556, 557.

Then given for copying
When copied
When examined
When signed

189

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAGES NOT FILLED UP, BEING MEANT FOR DESPATCH
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for the use of the Committee
a copy of the conveyance
to it of the property in
the Press.

Enclosed will also be found
a letter from the Archdeacon
to the Hon. Mr. Goss.

The following order seems
sufficient

"Order: 13 March 1895, No 222.

The Hon. Sol^r's letter of
22 Feb 1895, No 95, will
be communicated to the
Lawrence Asylum Com^{tee}
& the Directors of the
Press.

The copy of the conveyance
furnished by the Hon.
Sol^r for the use of the
Com^{tee} will also be
forwarded to that body.

Lease of Lawrence
Asylum Press

28
W
11 Mar
7/3/95

At Mr & Co

(For Order)

Arch Solicitor
Directors of the L.A. Press
Committee of the Lawrence Asylum 4/3/95 2 Mar 95

In this connection it is
worth noting that General
Bainings dissented from
the Resolution of the
Committee approving the
Sale of the Press (vide
p. 5 of G.O. of 1 Aug 1893, No
556, 557).

Then given for copying
When copied
When examined
When signed

189

Shadon

NUNGUMBAUKU.

Feb. 21 1895

My dear Goss,

Get hold as soon as
you conveniently can of a
letter Duncan & I sent to
the Chief Secretary yesterday -
No 2037 dated Feb 20/95.
in re L.A. Press.

You may possibly have
looked up the point raised but
if not it is well worth doing so.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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