[L. & M.
2,000—1-3-98.]

Local & Munl. (1898) Department.

MISCELLANEOUS.

G.O., No. 1033 M

DATED 8-6-98

INDEXED. CR

DESPATCHED

[Despatch Abstract.]

Establishment.

Recording with remark letter from the Chairman Municipal Council, Cuddapah stating that the present state of the municipal finances does not permit the appointment of a Muhammadan teacher for the Municipal High School, Cuddapah.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cir 2154 L/98							

R/ Local and Muni ~~Educational~~ (1898) Department.

CURRENT No. 638 M

SECRETARY TO GOVERNMENT
3 - FEB. 1898
LOCAL & MUNICIPAL DEPARTMENT

N/

To lie over pending receipt of the budget for 1898-99.

V.R.
12/3/98

E.S.R./98
12.3.

N/ ~~Order~~ 390 dy 31-3-98

Reference.

The chairman is requested to submit a proposition statement in the prescribed form and state how the municipal council proposes to meet the additional expenditure.

V.R.
29/3/98

S.G.R./98
29.3.

Copy desp.

Note - The closing balance of the budget for 1898-99 is only Rs 660.

To The Chairman, M.C. Cuddapah.

Despd 31/3/98

From The Director of Public Instruction Madras

No. 821.

Dated 1st February 1898.

Received 3-2-98

Registered 3-2-98

Enclosures nil

Spare copies

SUBJECT.

Submitting a letter from the Chairman, municipal council Cuddapah, requesting to appoint a Muhammadan teacher on a salary of Rs 20 for the municipal High School, Cuddapah.

P.T.O.

DESPATCHED

, Current Nos 638. M & 1828. M.

Order N° 1033. M. Mis. d/ 8-6-98.

Recorded, pending further report.

V.R. 6/6/98

7.6.98

~~Why not~~ send a reminder?

8.6.98

There is no need for a reminder in this case now, as the Chairman's letter is dated 26th May/98 and the meeting of the Council has probably been not held at all since. This G.O. will however be noted in the Call book and a reminder sent in due course thereon.

6/6/98

Call clerk

To note.

Done P.R. 7/6/98

11/6/98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Reference.

The Chairman is requested to submit a proposition statement in the prescribed form and that too the requisite council proposes to meet the

To

The Chairman M. C. Cuddapah.

Despd. 10/6/98

Local & Munl. (1898) Department.

CURRENT No. 1828 M

UNDER SECY TO GOVT 26 MAY 98

Order

From

The Chairman
Municipal Council
Cuddapah

No. 447

Dated 26th May 1898

Received

Registered

Enclosures

Spare copies

SUBJECT.

Stating that the present state of the municipal finances does not permit the appointment of a Muhammadan teacher for the Municipal High school Cuddapah.

BACK PAPERS.

G.O.	No	Department.	Date.
Ent 390/98			

FURTHER PAPERS.

G.O.	No.	Department.	Date.

No. 447

Enclosure.

CUDDAPAH MUNICIPAL OFFICE,

Dated 26th May 1898.

From

M. R. Ry. C. Ramachandra Row Garu B.A. B.L.

Chairman, Municipal Council,

CUDDAPAH.

LOCAL & MUNICIPAL DEPT
CURRENT No. 1828 M

To

The Secretary to Government
Local and Municipal
Department
Fort St George.

Sir,

With reference to your official memorandum No $\frac{390}{31.3.98}$, I have the honor to state that, the present state of the Municipal finances does not permit the appointment of Mahomedan teacher for the Municipal High school, Cuddapah, at once. It is also to be considered whether there will be any use in appointing a teacher ~~with~~ when 7 months of the school year (including the 2 months of the vacation) have already passed. The subject as to how to meet this expenditure will be placed before the Council

and

189 .

Cuddapah Municipal Council.

FROM

THE CHAIRMAN, MUNICIPAL COUNCIL,
CUDDAPAH.

TO

THE

The Secretary to Government
Local and Municipal
Department
Fort St George

Dated
Despatched
Received 189 .

No.

Enclosures.

SUBJECT.

Sir,

With reference to your official memorandum No 390
31.3.98 I have the honor to state that the present state of the Municipal finances does not permit the appointment of Mahomedan teacher for the Municipal High School, Cuddapah, at once. It is also to be considered whether there will be any use in appointing a teacher ~~[illegible]~~ when 7 months of the school year (including the 2 months of the vacation) have already passed. The subject as to how to meet this expenditure will be placed before the Council and the required proposition statement will be submitted.

I have the honor to be
Sir
Your most obedient servant
C Ramachandra
Chairman

Copd
Compd KR

Current No 4904
Rec 97

RR 1035 of 98

Local & Munl. (189 7) Department.

CURRENT No. ~~1857~~

COLLECTOR'S OFFICE
27 DEC 97

SECRETARY TO GOVERNMENT
15. JAN. 1898
LOCAL & MUNICIPAL DEPARTMENT

From The Chairman
Municipal Council
Cuddapah

Order

No. 1599

Dated 22.12-97

Received 15-1-1898

PUBLIC INSTRUCTION
24 JAN 98

Registered .

Enclosures

Spare copies

SUBJECT.

stating that the Council considers it desirable to appoint a Mahomedan teacher on a salary of Rs 20 per mensem for the Municipal High school. Cuddapah

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CUDDAPAH MUNICIPAL OFFICE,

Dated 22d December 1897.

No. 1599

185 M

Enclosure.

COLLECTOR'S OF
27 DEC 97

From Mrkry T. RangaRow Avergal
Ex officio Chairman, Municipal Council,
CUDDAPAH.

To

The Secretary to Government,
Local and Municipal Department,
Fort Saint George

Through,

The Collector, Cuddapah, and
the Director of Public Instruction,
Madras.

Forwarded.

12.1.98

Collector:

Sir,

In reply to the Proceedings of the Government dated the 16th August 1897 No 1789 M. Mis, I have the honor to state that the Council considers it desirable to appoint, for the Municipal High School, Cuddapah, a Mahamedan teach, able to teach both Hindustani and Persian Languages, on a salary of Rs 20 per mensem.

PR 10.98
12.1.98
10/1/98

I have the honor to be,
Sir,
Your most obedient Serva

Ex officio Chairm

The Secretary to Government

[illegible]

Through

The Collector, [illegible]

The Director of Public [illegible]

Sir,

In reply to the Proceedings of the [illegible]

dated the 16th August 1897 No 1787

I have the honor to state that the [illegible]

[illegible]

189 .

Cuddapah Municipal Council.

FROM

THE CHAIRMAN, MUNICIPAL COUNCIL,
CUDDAPAH.

TO

THE

Dated
Despatched
Received } 189 .

No.

Enclosures.

SUBJECT.

038M

No. 821. Dated 1st February 1898.

Submitted to Government.

2. The G. O. quoted by the Chairman has not been communicated to this office.

D Duncan
Director of Public Instruction

When given for copying
When copied
When examined
When signed 8/6 } 189 .

READ AGAIN G.O., No. , DATED
189 .

CURRENT NO.

ENCLOSURES TO C. NO.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.

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

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cmo 2830 d/98							

CR

Local & Munl. (1898) Department.

CURRENT No. 1302 M.

TO BE RETURNED
WITH REPLY.

From The Govt of India
Military Department

Secy.

~~Order~~ No. 484 d 25-4-98

Referred to the Advocate General for favour of opinion.

H. Tremenheere
Ag Secretary to Government

V.R
20/4/98

No. 621 C

Dated 5. 4. 98

Received 15. 4. 98.

Registered

Enclosures 4.

Spare copies.

To

The Government Solicitor.

SUBJECT.

Regd that the opinion of the Hon: the Advocate Genl: Madras, may be obtained on the question whether the Madras Municipality has any legal power to tax Govt timber and bamboo passed into the Madras Arsenal and Gun Carriage Factory for manufacture.

BACK PAPERS.

G.O.	No.	Department.	Date.
fo	2418	L.M.	3-9-97
"	2244-45	L.M.	14-10-97
"	50	L.M.	16-1-97
"	309	F.D.	4-2-78
"	255	P.D.	3-3-78

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Cantonments
Taxation

6

No. 621 C.

GOVERNMENT OF INDIA.

MILITARY DEPARTMENT.

It is requested that the above heading, with number and date of this communication, may be quoted in any subsequent correspondence on this subject.

Simla, the 5th April 1898.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1302 M.

To
The Secretary to the Government of Madras,
Municipal Department

Sir,

I am directed to acknowledge the receipt of your letter No 2224-5 M. Mis., dated the 14th October 1897, forwarding copy of a resolution of the Municipal Commissioners of Madras expressing their inability to exempt from the payment of license fees levied under Section 341 of the City of Madras Municipal Act, 1884, Government timber and bamboos consigned by the Forest and other Government Departments from outstations and ports to the Madras Arsenal and Gun Carriage Factory.

From the Director Genl of Ordce in India No 3810 Camp, dated 19th February 97 and enclosures.
From the Quarter master Genl in India No 1131-B., dated 30th April 1897.
(Return requested)

2. With reference thereto, I am directed to retransmit the correspondence noted in the margin, and to request that, under the orders of His Excellency the Governor in Council, the opinion of

of the Hon'ble the Advocate General, Madras, may be obtained upon the question whether, on the general principle that the Crown is not bound by any statute unless it is expressly named therein, or by necessary implication, the Madras Municipality have any legal power to tax Government timber and bamboos passed into the Madras Arsenal and Gun Carriage Factory for manufacture.

I am,
Sir
Your most obedient Servant,

C. H. Selwyn

for Dy: Secy: to the Govt. of India.

Local & Munl. (189) Department.

CURRENT No. 1536 M

From The Government Solicitor
Madras.

Order

No. 219

Dated 29th April 1898
Received 4th May 1898
Registered
Enclosures C. No 1302 M returned
Spare copies.

SUBJECT.

Forwarding opinion of the Advocate-General, Madras on the question whether the Madras Municipality has power to impose license fees in respect of Govt timber & bamboos consigned by forest & other Govt Depts from out stations & ports to the Madras Arsenal & Gun

BACK PAPERS.

G.O.	No.	Department.	Date.
Ext 484/98 Dr			

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Read

Section 341 - City act

G.O. 1034 M / 8.6.98.

9

LOCAL [illegible] DEPT

15.36 M

10-0

VW

OPINION.

1. The question in this case is, whether the Madras Municipality has power under Section 341 of the City of Madras Municipal Act, 1884 to impose license fees in respect of timber and bamboos, the property of Government, consigned by the Forest and other Government Departmen from out-stations and ports to the Madras Arsenal and Gun Carriage Factory.

2. I think there can be no doubt that, as a matter of fact, the Legislature never contemplated the application of the provisions of Section 341 of the enactment in question to the case of Government timber consigned by a Government Department to the Arsenal or Gun Carriage Factory. But this consideration, of course, cannot affect the question of the proper construction of Section 341 with reference to the point which has been raised.

3. Section 341 is contained in Part Vl of the Act which deals with various subjects connected with public health. It appears amongst a group of Sections under the main heading of "Offensive and dangerous trades" and under the sub-heading "Timber Depots". The object of Sections 338-341 may be stated, in general terms, to be the protection of the public against fire. Section 341 is intended to secure that all timber and firewood brought into the City shall be stored in a suitabl place and under proper conditions. The provisions as to license fees contained in the Section are merely incidental and ancillary. The necessity for these precautions is obvious in the case of "timber or firewood" brought into the City by private individuals and stored in private stores. No such necessity exists in the case of Government timber brought into the City by Government, and conveyed by Government to the Arsenal or Gun Carriage Factory. "General words and phrases, however wide and comprehensive in their literal sense, must be construed as strictly limited to the actual objects of the Act and as not altering the law beyond". See Maxwell on the Interpretation of Statutes, ed 3. p.113 citing Minet v Leman, 20 Beav. 278; Wear Commissioners v Adamson, 1 Q.B.D. 546.

not so in Madras Act
Both are Sub-head

4. On the other hand, it must be borne in mind that in certain case

the

10

the Act expressly provides that regulations which are to be enforced as against private individuals shall not apply to Government - See, for instance, S.332, which deals with licenses for offensive and dangerous trades, S.335, which deals with licenses for stables, cattle-sheds &ca, S.338 which deals with licenses for places for the sale or storage of wood, firewood and other inflammable materials, and S.174 which exempts the passage of troops, Government Stores &ca from the payment of tolls.

5. It seems to me that for the purpose of construing S. 341 with reference to the point in question, S.341 should be read by the light of S.338. Now, under S.338, a license is not necessary in the case of a place used for the storage of wood, firewood or other inflammable materials, if the place in question is in the occupation or under the control of Government. If Government are not exempt from the provisions of S.341, the state of the law would be this:- Government may occupy any place for the sale or storage of wood, fire wood &ca without a license, but they cannot bring their own timber or firewood into the City for the purpose of conveying it to their own premises without a license (for which they have to pay a fee) specifying the place and conditions of storing. This seems to me a legislative absurdity, and I think any Court would be disposed to place such a construction on S.341 as would bring it into harmony with S.338.

6. I am accordingly of opinion that the Madras Municipality has no legal power to impose license fees in respect of timber and bamboos, the property of Government, consigned by Government Departments to the Madras Arsenal and Gun Carriage Factory.

7. I may point out that S.341 speaks only of "timber or firewood", and that bamboos are neither "timber" nor "firewood". So that, in any case so far as the bamboos are concerned, the Section does not apply.

8. I do not think the general principle that the Crown is not bound by any Statute, unless it is expressly named, applies to such a case as this. Even assuming that the rule in the case of

---

11 See Act XI of 1881. 11-60

of the Crown applies to "Government", the inference to be drawn from the fact that "Government" is expressly mentioned in several of the other Sections of the Act would be that the Legislature did intend "Government" to be bound by the provisions of S.341. However, in my view, for the reasons which I have already stated, the provisions of S.341 do not apply to Government timber consigned to the Arsenal or Gun Carriage Factory.

9. For the purposes of this opinion, I have assumed that it is within the powers conferred by the Indian Councils' Act on Local Legislatures to impose a tax or demand license fees in respect of Government property.

C. Arnold White
Advocate General.

Madras)
28th April 1898)

(True Copy)

Ernest Barclay
Government Solicitor.

Excell v Barclay
Governmt Petn
Madras

vide Mundcastle
Stat. p 170

The general [illegible]
that the Crown is not bound
unless [illegible]

was to bind the [illegible]
payt in the [illegible]

(1898) Department

From

Ernest Barclay
Government Solicitor
Madras

SECRETARY TO GOVERNMENT
2 MAY -1898
LOCAL & MUNICIPAL DEPARTMENT

To

The Secretary to Government
Local & Municipal Department
Ootacamund

No. 219.

Dated 29th April 1898
Recd

Put up all papers. I.B.
(Railway) Ellore Stone file
Hon. M. Submitted. 5/5 98

Enclo 1.

Forwarded with enclosure with reference to the Endorsement of Government No. 484 dated 25th April 1898. Local & Municipal Department.

Ernest Barclay
Government Solicitor

Recd at Office on 28-5-98

E

H.E. the Governor

vide Hardcastle on Stat: p 180 & 182
(private copy (with up) therewith)
S.B.

37579

1

Hon.

Please see draft below for approval.

The general principle is that the Crown is not bound unless specially named. The Crown has a prerogative right accordingly to be exempted inter alia from tolls unless the taxing enactment clearly imposes the obligation.

The Adv. Gen. points out that there are certain inconsistencies in the Act of 1884, on which an argument might be founded that the intention was to bind the Govt. to the payt. in this case; but from reading sec. 341 with S. 338 he is of opinion that the Mad. Mcty has not the legal power claimed.

I may mention that in the North of India where the general Mun: taxation is largely dependent on Octroi no govt. property is liable

Letter

2

is with the Gt. & not merely in the hands of a contractor to deliver).

S.R. 2/5/98

Licence fees on Govt. timber and bamboos for Madras Gun Carriage Factory to the Madras Municipality

[L. & M.]
300—2-12-97.

3

LOCAL AND MUNICIPAL DEPARTMENT.

Papers to be read in Proceedings :—

Again GO., No. , dated 189 .

Again G.O., No. , dated 189 .

Current No. 1302 M of 1898, dated 5th April 1898, from the Govt. of India Military Department

" " 1536 M " 1898, " 29th April 1898, " the Govt. Solicitor

" " " 189 , " " "

[redacted] Misc ORDER. No. 1034 M Mis of 8.6.98.

The letter from the Government of India read above and the opinion of the Advocate General thereon will be communicated to the Municipal Commissioners of Madras with the request that they will now cease to levy license fees under section 341 of Act I of 1884, as amended by Act VII of 1884 and Act II of 1892, on Government timber and bamboos, consigned by the Forest and other Government Departments from out stations and ports to the Madras Arsenal and Gun Carriage Factory.

2. The following letter will be addressed to the Government of India:—

Letter No. 1035 M Mis of 10.6.98.

A.S.H. 3.6.98.

27/5/98

To
The President. M. C. Madras.

Para (1) only

27/5/98

2.

4 Desp 11/6/98

To.

The Secretary to the Government
of India,
Military Department.

Sir,

In reply to your letter No. 621.C, dated 5th April 1898, requesting that the opinion of the Advocate-General, Madras, may be obtained upon the question whether the Madras Municipality has any legal power under section 341 of Act I of 1884, as amended by Act VII of 1884 and Act II of 1892, to tax Government timber and bamboos passed into the Madras Arsenal and Gun Carriage Factory for manufacture, I am directed to forward a copy of the opinion of the Advocate General, answering the question in the negative, and to state that with reference to this opinion the Municipal Commissioners of Madras have been requested to cease to levy the license fees in question.

2. The correspondence noted in the margin received with your letter under reply is herewith returned.

I have &c.

From the Director Genl. of Ordce. in India No. 3810. Camp, dat 19th February 97 and enclosures.
From the Quarter Master Genl. in India No. 1131. B, date 30th April 1897.

V.G.
11/5/98

26/5/98

When given for copying ———)
When copied ——— } 189 .
When examined ———)
When signed 10/6

Read again G.O., No. , dated
189 ,

Current No.

Enclosures to C. No.

Order of Government .. .. .. A A A A A A A

Letter of Government.

Statement with ditto.

Papers not filed up, being meant for despatch in original.

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