Date.	Number of copies issued.	To whom issued.	Initials of Referencer.	Remarks.

Local & Munl. (189) Department.

INDEXED. CR

PRINTED.

G.O., No. 1067 M.

DATED 11-6-98

661 M
94

DESPATCHED

[Despatch Abstract.]

Licenses.

Communicating to the Municipal Council of Ootacamund, the Advocate General's opinion on the question whether —— may be required under Section 191 of Act III of 1897, for places used for the sale of Saltfish in the Municipality.

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 2509M/98							

L. & M.

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

Recd. } 1898. *Enclosures*

Regd. *Spare copies*

G.O., No. 1067 M., 11th June 1898.

JUNE.

Licenses.

Communicating to the Municipal Council of Ootacamund the Advocate-General's opinion on the question whether — may be required under section 191 of Act IV of 1884 as amended by Act III of 1897 for places used for the sale of salt-fish in the municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

From G. HAMNETT, Esq., C.I.E., Chairman, Municipal Council, Ootacamund, to the Secretary to Government, Local and Municipal Department (through the Collector of the Nilgiris), dated 22nd April 1898, No. 70.

I have the honour to submit, for the consideration and orders of the Government, copies of the papers marginally noted regarding the taking out of licenses for places used for the sale of salt-fish.

(1) Copy of report from the Sanitary Inspector in charge of Prosecutions, dated 22nd February 1898, with
(2) Copy of notification No. 1925.
(3) Copy of letter to the Acting District Magistrate, No. 4945, dated 23rd February 1898.
(4) Copy of letter from the Acting District Magistrate, No. 111, dated 21st March 1898.
(5) Extract from the proceedings of a meeting of the Ootacamund Municipal Council, dated 2nd April 1898.

2. The Sub-Magistrate of Ootacamund, before whom a native shopkeeper was prosecuted for using a place for selling salt-fish without a license, held that "salt-fish" was not included in the word "fish" and threw out the case. The Acting District Magistrate, to whom a reference on the subject was made, is "not prepared to say that the Sub-Magistrate's finding in the case in question was wrong."

3. It will be seen from paragraph 2 of my letter to the Acting District Magistrate that the Select Committee, which dealt with the Municipal Amendment Bill, was of opinion, in modifying section 191, that "the sale of meat and fish required licenses."

No.

Forwarded.

6th April 1898.

(Signed) W. C. McMURRAY,
for *Ag. Collector.*

Enclosures.

From E. T. FINGLEY, Esq., Prosecuting Sanitary Inspector, to the Chairman, Municipal Council, Ootacamund, dated 22nd February 1898.

I beg to report that the Tahsildar-Magistrate of Ootacamund this day acquitted one Raza Husain, provision-seller, No. 298, Main Bazaar, who was charged under section 191 (ii) and notification on that section No. 1925 of 21st August 1897 for storing and selling salt-fish without a license as required by Amendment Act III of 1897.

2. The magistrate was of opinion that the section and notification did not apply, as the word fish did not include salt-fish.

3. I argued *fish* in the notification was a general term and included both fresh and salt-fish, or a distinction would be made in the Bill for the framing of sections under the Act.

4. I submit the above for a ruling or decision as to the meaning of the word fish used in the Municipal Act.

From G. HAMNETT, Esq., C.I.E., Chairman, Municipal Council, Ootacamund, to the Acting District Magistrate, the Nilgiris, dated 23rd February 1898, No. 4945.

I have the honour to transmit copy of a report, dated the 22nd instant, from Mr. E. T. Fingley, the Sanitary Inspector in charge of prosecutions, and request the favour of an expression of your opinion on the construction placed by the Tahsildar-Magistrate on the word fish.

2. I may mention that the Select Committee on the Bill to amend Madras Act IV of 1884 (see Fort St. George Gazette Supplement, April 2nd, 1895, page 13) made the following remark :—

> "Section 191 * * * * *
>
> "(Bill 1). Section 85 seems to render (Bill 1) section 86 superfluous, but we prefer to modify section 191 of the Act in the same manner that section 346 of the City Act was amended by Act II of 1892; it will then be sufficiently clear that shops for the sale of meat and fish require licenses."

From D. W. G. COWIE, Esq., District Magistrate, the Nilgiris, to the Chairman, Municipal Council, Ootacamund, dated 21st March 1898, Dis. No. 111.

In reply to your letter, No. 4945, dated 23rd February last, I have the honour to state that I am not prepared to say that the Sub-Magistrate's finding in the case in question was wrong.

No. 526.

Referred to the Advocate-General for favour of opinion.

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

2nd May 1898.

To the Government Solicitor.

From the Government Solicitor, Madras, dated 16th May 1898, No. 243.

Abstract.—Forwarding the following opinion of the Advocate-General, dated Ootacamund, 11th May 1898 :—

Opinion.

The question in this case is whether a license is required, under section 191 (2) of the Madras District Municipalities Act, 1884, as amended by Act III of 1897 and the notification, dated 21st August 1897, for the sale of *salt-fish* in a place within the municipality. The Sub-Magistrate took the view that the sub-section and notification did not apply to a place for the sale of *salt-fish* on the ground that the word "fish" did not include *salt-fish*, and the Acting District Magistrate appears to have been of the same opinion.

2. It is to be observed that the words of the sub-section are "flesh intended for food"; whereas the notification refers expressly to "mutton, beef or fish."

3. I am unable to agree with the view of the Sub-Magistrate that "fish" does not include *salt-fish*. Salt-fish might well come within the "mischief" of the sub-section and the notification, and I fail to see how "fish" ceases to be "fish" because it is salted. For the purposes of the notification, I think "fish" includes *salt-fish*.

* * * * *

Ootacamund,
11th May 1898.

(Signed) C. ARNOLD WHITE,
Advocate-General.

ORDER—No. 1067 M., dated 11th June 1898.

The Advocate-General's opinion, so far as it relates to the point at issue, will be communicated to the Municipal Council of Ootacamund.

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Chairman, Municipal Council, Ootacamund.
,, all other Chairmen of Municipal Councils.
,, all Collectors.

Exd. W. D'Moss.

N° 01

Snow? 25/6
27/6

Government {1898} of Madras.

LOCAL AND MUNICIPAL.

Proof for approval.

Press
strike off
as revised
IH
27/6/98

Recd. } 1898. *Enclosures*
Regd. *Spare copies*

G.O., No. 1067 M., 11th June 1898.

JUNE.

Licenses.

Communicating to the Municipal Council of Ootacamund the Advocate-General's opinion on the question whether — may be required under section 191 of Act IV of 1884 as amended by Act III of 1897 for places used for the sale of salt-fish in the municipality.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—the following papers :—

C.I.E/

From G. HAMNETT, Esq., Chairman, Municipal Council, Ootacamund, to the Secretary to Government, Local and Municipal Department (through the Collector of the Nilgiris), dated 22nd April 1898, No. 70.

I have the honour to submit, for the consideration and orders of the Government, copies of the papers marginally noted regarding the taking out of licenses for places used for the sale of salt-fish.

(1) Copy of report from the Sanitary Inspector in charge of Prosecutions, dated 22nd February 1898, with
(2) Copy of notification No. 1925.
(3) Copy of letter to the Acting District Magistrate, No. 4945, dated 23rd February 1898.
(4) Copy of letter from the Acting District Magistrate, No. 111, dated 21st March 1898.
(5) Extract from the proceedings of a meeting of the Ootacamund Municipal Council, dated 2nd April 1898.

2. The Sub-Magistrate of Ootacamund, before whom a native shopkeeper was prosecuted for using a place for selling salt-fish without a license, held that "salt-fish" was not included in the word "fish" and threw out the case. The Acting District Magistrate, to whom a reference on the subject was made, is "not prepared to say that the Sub-Magistrate's finding in the case in question was wrong."

3. It will be seen from paragraph 2 of my letter to the Acting District Magistrate that the Select Committee, which dealt with the Municipal Amendment Bill, was of opinion, in modifying section 191, that "the sale of meat and fish required licenses."

No. .

Forwarded.

16th April 1898.

(Signed) W. C. McMURRAY,
for Ag. Collector.

ENCLOSURES.

& Esq/

From ~~Mr.~~ E. T. FINGLEY, Esq., Prosecuting Sanitary Inspector, to the Chairman, Municipal Council, Ootacamund, dated 22nd February 1898.

&

I beg to report that the Tahsildar-Magistrate of Ootacamund this day acquitted one Raza Hus~~s~~ain, provision-seller, No. 298, Main Bazaar, who was charged under section 191 (ii) and notification on that section No. 1925 of 21st August 1897 for storing and selling salt-fish without a license as required by Amendment Act III of 1897.

2. The magistrate was of opinion that the section and notification did not apply, as the word fish did not include salt-fish.

3. I argued *fish* in the notification was a general term and included both fresh and salt-fish, or a distinction would be made in the Bill for the framing of sections under the Act.

4. I submit the above for a ruling or decision as to the meaning of the word fish used in the Municipal Act.

C.I.E/

From G. HAMNETT, Esq., Chairman, Municipal Council, Ootacamund, to the Acting District Magistrate, the Nilgiris, dated 23rd February 1898, No. 4945.

I have the honour to transmit copy of a report, dated the 22nd instant, from Mr. E. T. Fingley, the Sanitary Inspector in charge of prosecutions, and request the favour of an expression of your opinion on the construction placed by the Tahsildar-Magistrate on the word fish.

2. I may mention that the Select Committee on the Bill to amend Madras Act IV of 1884 (see Fort St. George Gazette Supplement, April 2nd, 1895, page 13) made the following remark :—

1/

"Section 191 * * * * *

'(Bill 1). Section 85 seems to render (Bill 1) section 86 superfluous, but we prefer to modify section 191 of the Act in the same manner that section 346 of the City Act was amended by Act II of 1892; it will then be sufficiently clear that shops for the sale of meat and fish require licenses."

From D. W. G. COWIE, Esq., District Magistrate, the Nilgiris, to the Chairman, Municipal Council, Ootacamund, dated 21st March 1898, Dis. No. 111.

In reply to your letter, No. 4945, dated 23rd February last, I have the honour to state that I am not prepared to say that the Sub-Magistrate's finding in the case in question was wrong.

No. 526.

Referred to the Advocate-General for favour of opinion.

(Signed) H. TREMENHEERE,
Ag. Secretary to Government.

2nd May 1898.

To the Government Solicitor.

From the Government Solicitor, Madras, dated 16th May 1898, No. 243.

Abstract.—Forwarding the following opinion of the Advocate-General, dated Ootacamund, 11th May 1898 :—

Opinion.

& III/

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2. It is to be observed that the words of the sub-section are "flesh intended for food"; whereas the notification refers expressly to "mutton, beef or fish."

3. I am unable to agree with the view of the Sub-Magistrate that "fish" does not include *salt-fish*. Salt-fish might well come within the "mischief" of the sub-section and the notification, and I fail to see how "fish" ceases to be "fish" because it is salted. For the purposes of the notification, I think "fish" includes *salt-fish*.

* * * * *

Ootacamund,
11th May 1898.

(Signed) C. ARNOLD WHITE,
Advocate-General.

8

Order—No. 1067 M., dated 11th June 1898.

The Advocate-General's opinion, so far as it relates to the point at issue, will be communicated to the Municipal Council of Ootacamund.

(True Extract.)

for *Secretary to Government.*

To the Chairman, Municipal Council, Ootacamund.
,, all other Chairmen of Municipal Councils.
,, all Collectors.

Exd. W. D'Moss.

Gl. Cur. Regr. No. 500 of 98

19

Local & Munl. (189) Department.

CURRENT No. 1256 M.

UNDER SECY TO GOVT.
8 APR 98

TO BE RETURNED WITH REPLY.

8

From

The Chairman,
Municipal Council,
Ootacamund.

No. 70

~~Order~~ No 526 of 2-5-98

Referred to the Advocate General for favour of opinion

H. Tremenheere
Ag Secretary to Government

V.R.
27/4/98

Dated 2nd april 98
Despd 5" april 98

Received 5 APR 1898

Registered

Enclosures Three

Em 2 Notification in cro 1925/97 sent to advocate general vide cuo 2827 L/98

Spare copies

SUBJECT.

Licenses.—

Submitting for consideration and orders of Government, copies of papers regarding ——— to be taken out under Section 191 of Act III of 1897, for places used for the sale of salt-fish in the Ootacamund Municipality.

To the Govt. Solicitor

P.T.O.

1/1
2/5/98

V.R.
/4/98

2/4/98

70

Cur. Nos. 1256 and 1702 1/7/98
No. 1067 M. of 11-6-98.

P.S.

Order.

So far as it relates to the point at issue *

The Advocate Generals' opinion * ~~is~~ will be communicated to the municipal Council of Ootacamund.

E.B. 6/6/8

V.R. 1/6/98

* paras 1, 2 & 3 only

PR/ Please see that only paras 1 & 3 of the A.G.'s opinion are printed. EB 10/6

C.R./ Show me in proof please. PR 11/6/98

To Desp 6/7/98
The Chairman, M.C. Ootacamund
All other Chairmen of Muni Councils
All Collectors. Comps 6/7/98

Fr
Same paras. of A.G. opinion
E.B.

a/1/6

11/48

BACK PAPERS.

G.O.	No.	Department.	Date.
Jo	441	Lh	28-2-97
"	1626	Lh	20-7-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Thro' the Collector of the Nilgiris, Ootacamund

No. 70

Ootacamund Municipal Office,
22 April 1898.

LOCAL & MUNICIPAL DEPT.
CURRENT No. 1256 M

Cur 1067 of 8 11/6

FROM
THE CHAIRMAN,
MUNICIPAL COUNCIL,
OOTACAMUND.

Enclosures Three

To
The Secretary to the Government
Local & Municipal Department
Fort St. George

Sir,

I have the honor to submit, for the consideration and orders of the Government, copies of the papers marginally noted, regarding the taking out of licenses for places used for the sale of salt fish.

2. The Sub Magistrate of Ootacamund, before whom a native shop keeper was prosecuted for using a place for selling salt fish without a license, held that "salt fish" was not included in the word "fish" and threw out the case. The Acting District Magistrate, to whom a reference on the subject was made, is "not prepared to say that the sub magistrate's finding in the case in question was wrong."

(1). Copy of report from the Sanitary Inspector incharge of Prosecutions dated 22d February 1898 with
(2) Copy of Notification No. 1925.
(3). Copy of letter ~~to~~ the Acting District Magistrate No. 4945 dated 23d February 1898.
(4). Copy of letter from the Acting District Magistrate No. 111 dated 21st March 1898.
(5). Extract from the Proceedings of a meeting of the Ootacamund Municipal council dated 2nd april 1898.

1000.
1-8-97.

3. It will be seen from paragraph 2 of my letter to the Acting District Magistrate that the Select Committee which dealt with the municipal amendment Bill was of opinion, in modifying Section 191, "that the sale of meat and fish require licenses."

I have the honor to be,

Sir,

Your most obdt. servant

G. W. Hamnett

Chairman

a.M

Forwarded

for Ag. Collector

86/w/98

~~L80~~

6.4.98

[L. & M.

Enclosure No. 3 to letter No. 13 of 2.4.98.

(B)

Extract from the Proceedings of a Meeting of the Ootacamund Municipal Council held on Saturday the 2d. April 1898.

~~Subject No.~~	Resolution :—
Present The Chairman D. W. G. Cowie Esqr. J. Browne Esqr. A. R. Hajee Fakeer Mahomed Sait Sahib D. Eduljee Esqr. A. M. Jones Esqr. Colonel R. F. Stevenson Surgeon Major C. M. Thompson M.B.	
Subject No. V. Read letter dated 21st. March 1898, from the District Magistrate, the Nilgiris, stating that he is not prepared to say that the Sub Magistrate's finding in the case in which one Razack Hussain was prosecuted for selling salt fish without a license, was wrong.	"Resolved that the papers be submitted to the Government for their consideration."

Municipal Office,
Ootacamund, 2d. April 1898.
To

(True Extract)

G. W. Hamnett

Chairman.

a.M

100.
8-2-96.

L. & M.

Enc: No. 1. to Letter No. 70 of 2-4-98

Ootacamund
22d February 1898

To,

The Chairman
Ootacamund Municipal Council

Sir,

I beg to report that the Tahsildar Magistrate of Ootacamund this day acquitted one Raza Hussain Provision Seller No. 298, Main Bazaar, who was charged under Section 191ˣ(II) and notification⊗ on that Section No. 1925 of 21.8.97. for storing & selling Salt fish without a license as required by amendment Act III of 1897.

The Magistrate was of opinion that the section & notification did not apply as the word fish did not include saltfish.

I argued fish in the notification was a general term & included both fresh & saltfish or a distinction would be made in the Bill for the

framing

x No place in any municipality shall be used as a slaughter house or for the slaughtering of any animal intended for food or for selling or storing for sale any flesh intended for food, unless a license for such use thereof has been previously obtained from the Chairman.

⊗ With the approval and sanction of the Governor in Council the fee for license for selling or storing for sale any mutton, beef or fish in any place outside of the Public market is Rs 2 per mensem.

1/1256 M. 998

framing of sections under the act.

I submit the above for a ruling or decision as to the meaning of the word fish used in the Municipal act.

Yours very obediently
(Signed) E. J. Quigley,
Pros. Sany Inspr.

Ootacamund
23d February/98

No. 4945
24.2.98

To,

D. W. G. Cowie Esqr.,
Ag District Magistrate,
the Nilgiris.

Sir,

I have the honour to transmit copy of a report dated the 22d instant from Mr. E. J. Quigley, the Sanitary Inspector

Inspector in charge of prosicutions, and request the favor of an expression of your opinion on the construction placed by the Tahsildar-Magistrate on the word fish:

2 I may mention that the Select committee on the Bill to amend Madras Act IV of 1884 (See Fort St. George Gazette Supplement April 2nd/95 page 13) made the following remark.

Flag M

" Section 191 × × ×

"(Bill 1) Section 85 seems to render (Bill 1) Section 86 superfluous, but we prefer to modify section 191 of the Act in the same manner that Section 346 of the City Act was amended by Act II of 1892; it will then be sufficiently clear that

Shops

Shops for the "Sale of meat and fish require licenses."

17

i.e. in the opinion of the Select Committee the expression "any flesh intended for food" means "meat and fish."

I have &c
(Signed) George Hammett
Chairman

Dis No 111

Nilgiri District Magistrate's Office
21. 3. 1898

From
D. W. G. Cowie Esq^r,
District Magistrate,
the Nilgiris.

To
The Chairman
Ootacamund Municipal Council

Sir,

In reply to your letter No 4945 dated 23^d February last, I have the honor to state that I am not prepared to say that the sub magistrate's finding in the case in question was wrong.

I have &c
Signed W. C. McMurray
For District Magistrate

3 / 1256 m 9/98

(True copies)

A.M.

G. Hammett
Chairman

---

18 Abstract 18

Local & Munl. (189) Department.

CURRENT No. 1702 M

Order

Obtn. Forwards the follg opinion of the advocate General of Govt 11-5-98

From The Government Solicitor
Madras

No. 243

Dated 16^th May 1898
Received 17^th May 1898
Registered
Enclosures Cor 1256 m returned
Spare copies.

SUBJECT. ~~The Sale~~

Forwarding Opinion of the Advocate-General Madras, with reference to the endorsement of Government No 526 dated 2^nd May 1898. L & M Dept.

23.5.98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

LOCAL & MUNICIPAL DEPT. No. 19/1702 M

Section 191 (2)

~~68~~

UNDER SECY TO GOVT 17 MAY 98

~~up to par 3 only~~

7-00

G.O. No. 1067 M
11.6.98

OPINION

1. The question in this case is whether a license is required, under s. 191 (2) of the Madras District Municipalities Act, 1884, as amended by the Act of 1897, and the notification dated August 21st 1897, for the sale of salt fish in a place within the Municipality. The Sub-Magistrate took the view that the sub-section and notification did not apply to a place for the sale of salt fish on the ground that the word "fish" did not include salt fish, and the acting District Magistrate appears to have been of the same opinion.

2. It is to be observed that the words of the sub-section are "flesh intended for food" whereas the notification refers expressly to "mutton beef or fish".

3. I am unable to agree with the view of the sub-magistrate that "fish" does not include salt fish. Salt fish might well come within the "mischief" of the sub-section and the notification, and I fail to see how "fish" ceases to be "fish" because it is salted. For the purposes of the notification I think "fish" includes salt fish.

4. There is, however, a further question for consideration. It might be contended that the notification, in so far as it applies to fish at all, is ultra vires the terms of the section. The section only refers to "flesh intended for food". For the purposes of construing these words evidence as to the intention of the select Committee on the amending Bill would be inadmissible. The side note, moreover, (although it cannot be referred to for the purpose of construing the section) is. "Slaughter-houses and butchers' shops to be licensed". It might be argued with some force that, inasmuch as the earlier provisions of the sub-section as to slaughter-houses and the slaughtering of animals are not applicable to fish, the section ought not to be construed as applying to places for selling or storing fish.

5. I am of opinion that the sub-magistrate was wrong in the view he took as to the meaning of the word "fish" as used in the

notification; and I am also of opinion, though not without some doubt, that s. 191 (2) may be construed as applying to places for selling or storing fish, and that, consequently, a license may be required in respect of a place so used.

Ootacamund C. Arnold White
May 11th 1898 Advocate General

(True Copy)
Ernest Barclay
Government Solicitor

(1898) Department

From

Ernest Barclay
Government Solicitor
Madras

To

The Secretary to Government
Local & Municipal Department
Madras

No 243

Dated 16th May 1898 }
Recd

UNDER SECY TO GOVT.
17 MAY 98
PUBLIC

Enclos 4

Forwarded with enclosures with reference to the Endorsement of Government, No 526, dated 2nd May 1898, Local & Municipal.

Ernest Barclay
Government Solicitor

2,000—1-3-98.

First copy sent to Press.	14-6-98	
Returned for signature.	4-7-98	
Despatched in print.	5-7-98 6-7-98	8/

Number of copies required. { Order complete. 250
Letter only.
Order complete with Letter.

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

RRENT No 1256. M – A.
1702 M – (paras 1, 2 & 3 only) A

Press
Show proof please
PR
11/6/98

Enclosures to C. No.

Order of Government

Letter of Government.

Statement with ditto.

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

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