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2. Date of receipt 1-7-12-
3. Initials of Receiver

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MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	432	Press Mis.
Dated	5-4-	191869

Not to be folded or roughly handled

[Handwritten signature]

N^o. 11.

Suddapah

12th March 1869

From

G. Vans Agnew Esq^r

President of the Municipal Commission
Suddapah

To

The Honorable R. S. Ellis C.B.

Chief Secretary to Government

Fort Saint George

Sir,

1 Have the honor to subjoin for the consideration of the Government the following transcript of an "Extract from the Proceedings of the Municipal Commissioners for the Town of Suddapah held on the 4th March 1869-

x x x x

3 Read letter from the Collector of Suddapah, stating that the Commissioners should undertake all the expenses of planting avenue trees, and that he is not disposed to pay, from the General Local Funds of the District, for trees to be planted within the Municipality-

4 Read also Proceedings of Government No. 11,84 dated 27th November 1867, stating that the avenue trees are, by the instructions of

of the Board of Revenue, under the care
of the Collector of the District.

Resolved that the Government not having
clearly decided to whom the avenue
trees (existing) belong and by whom
new trees are to be planted and main-
tained, the President be requested to
address Government again on the matter
for their final orders.

2 The instructions of the Board
of Revenue referred to in the above order
of Government are, I presume, those con-
veyed in their Standing Circular Order
No 23 (Palgelli), and I would beg to point
out that these instructions were promulgated
before Municipalities were established,
and that the Board themselves had
previously inculcated the general princi-
ple that Municipal improvements are
never to be carried out entirely from the
General Local Funds of the District (Stand-
ing Circular No 32).

3 But apart from what may be
the opinion of the Board of Revenue, now
that the circumstances, under which their

Standing Circulars were promulgated, have
been altered by the establishment of
Municipalities, I venture to submit
that Section 11 of the Towns Improvement
Act vested in the Municipal Commis-
sioners, together with the highways, all
avenues appertaining thereto. The words
of the section are "all other things pro-
vided for such highways", and that
the avenue trees are things provided for
the highways and are consequently in-
cluded in the above definition appears to
me to be undeniable. They stand upon
ground which is the absolute property
of the Commissioners, and in my view
the Collector is interdicted by law from
interfering either with the trees, existing
at the introduction of the Act, or in any
way whatever with the ground within
the limits of the highways, and conse-
quently he cannot take fresh trees
thereon.

4 But even if the above interpretation
of the law be held to be incorrect there
is another very strong reason in favor
of Municipalities supporting their
own

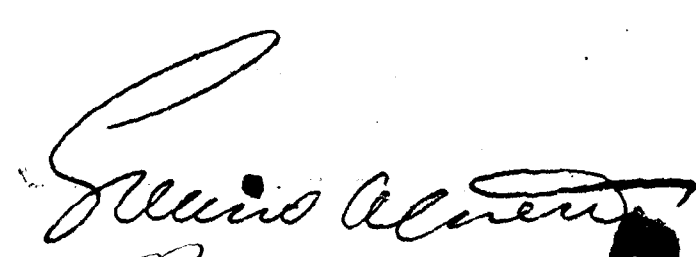
iron avenues - Avenues throughout the Districts are maintained out of appropriations from Road Cess collected on all lands except those situated within the Municipalities - The Road Cess on Municipal lands is credited to Municipal Funds. ~~It would therefore~~ be a clear injustice to outside taxpayers to expend within Municipal limits any portion of the Road Cess collected from them, in addition to the whole Road Cess accruing within those limits, which has been specially placed at the disposal of ^{the} Municipal authorities.

5 I believe I am not mistaken in saying that both at Negapatam and Trichinopoly possession of the existing avenue trees, and the responsibility of planting more, were at once assumed ~~as by right by~~ the Municipal Authorities.

6 Moreover I consider the Municipal Agency likely to be so much the best in the matter of looking after the trees, that if the charge thereof should be decided to devolve upon

me, as Collector, if I should in that case be able to see my way to sparing any funds for the purpose which is most improbable - I should simply get the Commissioners to execute the job, and hand over the cost of it to them -

Have the honor to be
Sir
Your Most Obedt. Servt.


Francis Alcock
President of the Municipal
Commission for the District



432

Cap

Public 1889 Report
From 5 April 1889
From the President of the
Municipal Commission
to the Chief Secretary
to Government
Fort St George
Dated 12th
Recd 16th March 1889

No 11

No 417

Subjoins for the consideration
of Government transcript of an
abstract from the Municipal
Commissioners for the year of
1888-89 held on the 14th
March 1889, regarding the
matters as to whom the
Municipal limits
belong and by whom new trees
are to be planted & maintained.
Submits his own views on
the matter.

c20/3
11 April

31.

Proceedings of the Madras Government, Public Department,
5th April 1869.

No. 31. Read the following letter from the President of the Municipal Commission, Cuddapah, to the Chief Secretary to Government, Fort Saint George; dated Cuddapah, 12th March 1869, No. 11.

I have the honor to subjoin, for the consideration of the Government, the following transcript of an Extract from the Proceedings of the Municipal Commissioners for the Town of Cuddapah held on the 4th March 1869:—

* * * *

“3. Read letter from the Collector of Cuddapah, stating that the Commissioners should undertake all the expenses of planting avenue trees, and that he is not disposed to pay, from the general local funds of the district, for trees to be planted within the Municipality.

“4. Read also Proceedings of Government, No. 1484, dated 27th November 1867, stating that the avenue trees are, by the instructions of the Board of Revenue, under the care of the Collector of the district.

“Resolved that the Government not having clearly decided to whom the avenue trees (existing) belong, and by whom new trees are to be planted and maintained, the President be requested to address Government again on the matter for their final orders.”

2. The instructions of the Board of Revenue, referred to in the above order of Government, are, I presume, those conveyed in their Standing Circular Order No. 23, (Dalyell's,) and I would beg to point out that these instructions were promulgated before Municipalities were established, and that the Board themselves had previously inculcated the general principle that “Municipal improvements are never to be carried out entirely from the general local funds of the district.”—(Standing Circular No. 32).

3. But apart from what may be the opinion of the Board of Revenue, now that the circumstances, under which their Standing Circulars were promulgated, have been altered by the establishment of Municipalities, I venture to submit that Section 11 of the Towns' Improvement Act vested in the Municipal Commissioners, together with the highways, all avenues appertaining thereto. The words of the Section are “all other things provided for such highways,” and that the avenue trees are things provided for the highways, and are consequently included in the above definition, appears to me to be undeniable. They stand upon ground which is the absolute property of the Commissioners, and in my view the Collector is interdicted, by law, from interfering either with the trees existing at the introduction of the Act, or in any way whatever with the ground within the limits of the highways, and consequently he cannot plant fresh trees thereon.

4. But even if the above interpretation of the law be held to be incorrect, there is another very strong reason in favor of Municipalities supporting their own avenues. Avenues throughout the districts are maintained out of appropriations from road cess collected on all lands *except those situated within the Municipalities*. The road cess on Municipal lands is credited to Municipal funds. It would, therefore, be a clear injustice to outside taxpayers to expend within Municipal limits any portion of the road cess collected from them, in addition to the whole road cess accruing within those limits, which has been specially placed at the disposal of the Municipal authorities.

*Proceedings of the Madras Government, Public Department,
5th April 1869.*

5. I believe I am not mistaken in saying that both at Negapatam and Trichinopoly possession of the existing avenue trees, and the responsibility of planting more, were at once assumed as by right by the Municipal authorities.

6. Moreover I consider the Municipal agency likely to be so much the best in the matter of looking after the trees, that if the charge thereof should be decided to devolve upon me, as Collector, and if I should in that case be able to see my way to sparing any funds for the purpose, which is most improbable, I should simply get the Commissioners to execute the job, and hand over the cost of it to them.

No. 32.

ORDER THEREON, 5th April 1869, No. 432.

In the foregoing letter the President of the Municipal Commission, Cuddapah, at the request of the Commission, raises the question as to the proper authority over avenues in the Municipal limits, and as to the extension or creation of these avenues within these limits.

2. By Section 11 of Act X. of 1865, Towns' Improvement Act, public highways, (not being the property of and repaired by and kept under the control of Government and not being private property) are vested in, and belong to, the Municipal Commission.

3. The Imperial roads running through Municipal limits continue to receive the maintenance grant from the Imperial Funds, and are either kept up under the direct Agency of the Department of Public Works, or by arrangement the maintenance grant is paid to the Municipal Commission.

4. The President of the Municipal Commission will be informed that all roads not Imperial and not private property are vested in the Municipal Commissioners, and that with these roads are included existing avenues; that the maintenance of existing avenues on such roads, and the creation of new avenues are properly Municipal charges; and that where no Road Fund cess is levied within Municipal limits no portion of this Local Fund can be applied to planting or maintaining avenues.

5. When the maintenance grant, assigned for Imperial roads running through Municipal limits, has been made over to the Municipal Commission by the Department of Public Works, the responsibility of maintaining existing avenues, and of making new avenues where required on these roads, will rest with the Municipality.

(True Extract).

Chief Secretary.

To the President of the Municipal Commissions in
,, Public Works Department.
,, Revenue Department.

Exd. J. Wright.

Govt. of 1869 Madras.

PUBLIC.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSIONS IN

* &c., &c., &c.

Dated April, 5th.

Recd.

Encl.

G. O., 5th April 1869, No. 432.

APRIL.
Nos. 31-32.

Passing orders in regard to the question raised
by the President of the Municipal Commission,
Cuddapah, as to the proper authority over avenues
in the Municipal limits, and as to the extension
or creation of these avenues.

Public Septt

Proceedings of the Madras Government

Memo for Orders Read the following letter

From the President of the Municipal Commission Cuddalore dated 12 March 1869 No 11.

Order No 232 dated 15 April 69

In the letter the President of the Municipal Commission Cuddalore at the request of the Commission, raises the question as to the proper authority over ~~the~~ ^{avenues} in the Municipal limits and as to the exclusion or creation of these avenues within these limits.

2. By Section XI of Act X of 1865, Towns Improvement Act; Public Highways (not being the property of and reserved by and kept under the control of Government and not being private property) are vested in, and belong to the Municipal Commission.

3. The Imperial Roads running thro' Municipal limits continue to receive the maintenance grant from the Imperial Funds, and are either kept up under the direct agency of the Department of Public Works, or by arrangement the maintenance grant is paid to the Municipal Commission.

The President of the Municipal Commission will ~~therefore submit that the~~ President, ~~all Agents~~ may be informed that

all

M. A.
1869

all Roads not Imperial and not private property
are vested in the Municipal Commissioners, and
that with these roads are included existing avenues;
that the maintenance of existing avenues on such
roads, and the creation of new avenues are properly
municipal charges and that where no Road Fund
exists within Municipal limits no portion
of this Local Fund can be applied to planting
or maintaining avenues.
When the maintenance grant assigned
for Imperial Roads remaining the Municipal
limits has been made over to the Municipal
Commissioners by the Department Public Works,
the responsibility of maintaining existing avenues
and of making new avenues where required will
rest with the Municipality.

ML

The President of the Municipal
Commissioners in alt
P.M. Depart
Res. Depart } disps 12/4

Death disps 13/6

Question as to charge
over. And also within
municipal limits.

Charge for services.

Court of 1869 Adams.

Public

3

The Pres. Munt. Comm.

yes

Dated April 5.

Recd.

Encl.

G. O. 5 April 1869, No. 432.

Nos. 31. 32.

Passing orders in regard to
the question raised by the
Pres. of the Munt. Comm.
and as to the proper
authority over armies in
the Munt. limits & as to the
extension or creation of these armies.