M.R.O. 1—50,000—15-10-59.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1025 Press
~~Mis.~~
324-325

Dated 15th April 1869

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department,
15th April 1869.

No. 324. Read the following Proceedings of the Madras Government in the Public Department :—

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. (Here enter 5th April 1869, No. 432.)

No. 325. ORDER THEREON, 15th April 1869, No. 1,025.

Miscellaneous. COMMUNICATED to the Board of Revenue.

(True Extract.)

(Signed) H. WELLESLEY,
Acting Under Secretary to Government.

To the Board of Revenue, with Proceedings Public Department, No. 432.

Erd. F. R. Bantleman.

Govt. of 1869 Collns.

REVENUE.

To

THE BOARD OF REVENUE.

Dated April, 15th.

Recd.

G. O., 15th April 1869, No. 1,025.

APRIL.

Nos. 324-325.

Answers within Municipal Limits.—Order directing that their maintenance and extension should be under the control of the Municipality, communicate to Revenue Board.

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 exponses 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.

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).

R. S. Ellis
Chief Secretary.

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

Exd. J. Wright.

Revenue No. 118 Dt. 5th

Govt. of Madras, 1869.

PUBLIC.

To

THE PRESIDENT OF THE
MUNICIPAL COMMISSIONS IN

&c., &c., &c.

Dated April, 5th.

Recd. 13th. 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.

With Order
No. 1025 - 15 April 69

324-325.