

(No. 42.)



1865.

TASMANIA.

LEGISLATIVE COUNCIL.

MR. KIDD.

CORRESPONDENCE WITH THE COLONIAL TREASURER IN
REFERENCE TO POLICE RATES.

Return to an Order of the Council dated August 23, 1865. (Mr. Kermode.)

Laid upon the Table by Mr. Whyte, and ordered by the Council to be printed,
August 25, 1865.



Evandale, 21st October, 1863.

SIR,

EVER since I came into the premises now occupied by me Accounts for Police Rates have been handed to me, which I have regularly paid up to last year, believing that Mr. Russell was liable for such Rates. Last year, however, I began to suspect the legality of such a claim, as the buildings were rented by the Government for public purposes, and so I refused to pay. Consequently I was summoned by our Evandale Magistrates to appear before them and show cause for my refusal. I accordingly waited upon them, and was informed by the *same Bench* that the claim was illegal. I beg, therefore, to be informed whether I have any claim upon the Government for a reimbursement of the money, and if so, what steps I ought to take in the matter.

I am,

Your obedient Servant,

W. H. KIDD.

The Honorable F. M. INNES, Hobart Town.

REFERRED to the Secretary to Board of Education with the request that he will be so good as to have this claim looked into.

THOS. V. JEAN.
16th Dec, 1863.

REFERRED for the opinion of the Law Officers of the Crown.

M. BURGESS.
24th February, 1864.

The Honorable the Colonial Secretary.

1st March, 1864.

IF Mr. Kidd has paid Rates that he was not liable to pay, I cannot see that he has any legal claim on the Government for reimbursement; and if the Rates paid were not legally due, I think he cannot avail himself of the provision in the 11th Section of "The Rural Police Rate Act," 21 Vict. No. 35, relative to the recovery of one half of the Rate paid by the occupier of a property from the landlord.

J. C. GREGSON.

Hobart Town, Tuesday Evening.

DEAR SIR,

I HAVE no means that are not open to yourself of calling the attention of the Government to the claim you represent yourself to have to a refund of Police Rate paid by you in error for a Government building occupied by you. I believe that you have nothing to do but to bring the circumstances in a proper way under the notice of the Colonial Treasurer, who, as a matter of course, will authorise the refund. I believe that instances occurred similar to your own when I was connected with the Treasury. Any letter you may have sent on the subject must have been accidentally overlooked in the mass of letters daily received by the Department.

Yours truly,

F. M. INNES.

Mr. KIDD, Government School, Evandale.

Evandale, 21st January, 1864.

SIR,

SINCE the time I entered the premises now occupied by me, and which have been rented by the Government for Educational purposes, I have been assessed for Road and Police Rates which I paid; but in the year 1862 I found that the Road Trust were assessing me illegally according to their own Rules. I thereupon not only ceased paying, but wrote to the Trust claiming to be reimbursed to the amount paid by me for the previous years. Receiving no answer for fully a year I wrote again in 1863, and still they refuse to reply, either acceding to my claims or declining.

I complained also at the Police Office of the injustice of assessing me for Police Rates for buildings rented by Government. The Magistrates then on the Bench considered that I was exempt, yet in 1863 I was again called upon for Police Rates, which I refused. I was thereupon summoned before the Magistrates to show cause for my refusal. When I waited upon them they told me that the claim was illegal, and that I was not liable; but when I asked them to refund the former Rates they told me they had no power over the money.

I beg, therefore, to ask whether I am not entitled to a reimbursement of the money, and who are the proper parties to whom I ought to apply.

I have the honor to be,

Sir,

Your obedient Servant,

W. H. KIDD.

The Colonial Secretary, Hobart Town.

FORWARDED to the Inspector of Schools.

FRANK C. TRIBE, C. C.

23rd January, 1864.

THE Crown Solicitor is requested to furnish his opinion upon the question raised in these letters of Mr. Kidd's.

For the Colonial Secretary, (*absent*)

B. TRAVERS SOLLY.

25th February, 1864.

I HAVE answered the question as to "Police Rates" on the back of Mr. Kidd's other letter sent herewith; as to "Road Rates," my answer must be the same. I think that the general rule of law, that money paid away under a mistaken notion of legal liability cannot be recovered back, applies to these cases. Mr. Kidd has been negligent in not setting up his claim of exemption in the first instance.

J. C. GREGSON.

4th March, 1864.

Public School, Evandale, 10th November, 1864.

SIR,

I HAD the honor some time since to represent to you, that for a period of five years I paid in error the sum of Two Pounds per annum, amounting in all to Ten Pounds, being for Police Rates, the house which I occupy being by law exempt from such liability, which I was not aware of at the time, and to beg that the amount in question should be refunded to me, which I am informed has been done in similar cases,—(*vide* the accompanying letter).

I beg respectfully to renew my application, your attention to which will much oblige.

I have the honor to be,

Sir,

Your obedient Servant,

W. H. KIDD, *Schoolmaster.*

The Honorable the Colonial Treasurer.

Colonial Treasury, 11th November, 1864.

SIR,

I HAVE to acknowledge the receipt of your letter of the 10th instant, renewing an application which you represent as having been made to me some time since for the refund of Police Rates paid by you in error, the house which you occupy being by law exempt from such liability, and to inform you that I will enquire into the matter.

I remain, &c.,

(Signed) CHAS MEREDITH.

Mr. W. H. KIDD, Schoolmaster, Evandale.

REFERRED to the Secretary of the Board of Education.

CHAS. MEREDITH.

Colonial Treasury, 18th November, 1864.

RETURNED to the Colonial Treasurer with former papers. The question generally of the liability of Teachers to payment of Police and Road Rates when in occupation of *public* buildings has for a length of time past been under the consideration of the Board, and is still unsettled. In the case of Mr. Kidd, the School-house is a very large building affording accommodation for Boarders, and one wing of it is occupied as a Public Library.

M. BURGESS.

23rd November, 1864.

The Honorable the Colonial Treasurer.

Colonial Treasury, 24th November, 1864.

SIR,

IN accordance with my letter to you of the 11th instant, I have to acquaint you that on enquiry I find that your previous application was referred to the Secretary to the Board of Education, the building for which you claim the refund of Police Rates being rented by the Board, and that in answer to your letter of the 10th instant, which I referred in like manner, I am informed by the Secretary that, "The question generally of the liability of Teachers to payment of Police and Road Rates when in occupation of Public Buildings has for a length of time past been under the consideration of the Board, and is still unsettled."

I am, &c.,

(Signed) CHAS. MEREDITH.

Mr. W. H. KIDD, Evandale.

Evandale, 9th June, 1865.

SIR,

I HAVE again the honor to remind you that I have received no refund of the money illegally claimed from me for Police Rates and paid by me in error. What the Government had no right to claim, I consider an injustice for them not to repay when it is discovered that the claim is illegal.

I have the honor to be,

Sir,

Your obedient Servant,

W. H. KIDD.

The Hon. the Colonial Treasurer, Hobart Town.

Evandale, 10th August, 1865.

SIR,

NEARLY ten years ago I arrived here as a Teacher under the Board of Education. For about two years of the first part of that period I occupied premises belonging to the Church of England and rented by the Board, and during that time there was no claim made upon me for Road and Police Rates. The instant, however, I removed to the more eligible premises I now occupy, built by the Rev. R. Russell according to his usual spirit of liberality, the Collector laid in his claim.

Being a stranger in the Colony, I at the time thought Mr. Russell was entitled to pay, and consequently I laid out the money, and continued to do so for a period of five years.

I then began to consider the claim unjust; and upon investigating the matter I found that the premises were exempt by law. Consequently I wrote to you claiming a refund of the money which had been taken from me illegally (and I believe your predecessor has refunded similar moneys during his tenure of office as Treasurer), but to which application I have received no definite answer.

I have, therefore, the honor of again respectfully reminding you of my claim, and begging a reply at your earliest convenience, as in the event of your failing to see the justice of my demand I intend bringing the matter before Parliament.

I have the honor to be,
Sir,

Your obedient Servant,
W. H. KIDD.

The Hon. the Colonial Treasurer, Hobart Town.

Colonial Treasury, 15th August, 1865.

SIR,

I HAVE to acknowledge the receipt of your letter of the 10th instant, in which you renew your claim for a refund of certain Police Rates paid by you in error for premises rented by the Board of Education.

I have now to inform you that the Law Officers are of opinion that, as a general rule of law, money paid away under a mistaken notion of legal liability cannot be recovered back.

I have, &c.,
(Signed) CHAS. MEREDITH, *Colonial Treasurer.*

Mr. W. H. KIDD.