M.R.O. 1—77,006—8-6-37.

(1) Number of pages 24.

(2) Date of repair 6-4-40.

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	1286	Press / Mis.
47-48		
Dated	11-9-	1873.

47-48 13/14

Not to be folded or roughly handled

No. 47. Read the following letter from Colonel T. C. LONGCROFT, Deputy Adjutant-General, to Colonel A. C. SILVER, Secretary to Government, Military Department, Fort St. George, dated Fort St. George, 4th September 1873, No. 413 :—

I have the honour, by order of the Commander-in-Chief, to forward, for submission to Government, a memorial from Deputy Surgeon-General W. Johnston, M.D., Indian Medical Department, appealing against the "Profession-tax" levied by the Trichinopoly Municipality.

2. The Commander-in-Chief is of opinion that, as the law now stands, exemption cannot be claimed.

3. The decision of Government on the case of Major Monckton, Royal Artillery, in its Proceedings dated 12th March 1873, No. 341, would apparently govern the claim now submitted.

From Deputy Surgeon-General J. L. RANKING, Acting Surgeon-General, Indian Medical Department (through the Adjutant-General), to Colonel A. C. SILVER, Secretary to Government, Military Department, Fort St. George, dated Fort St. George, 2nd September 1873, No. 324.

I have the honour to submit, for the consideration and orders of Government, a memorial from Deputy Surgeon-General Johnston, M.D., against the Profession-tax levied by the Trichinopoly Municipality.

2. I would solicit attention to my letter, No. 5086, of 12th August, to Dr. Johnston's address, and his reply thereto.

To

HIS EXC. THE RIGHT HON. VERE HENRY HOBART *LORD* HOBART,
Governor and President in Council, Fort St. George.

The Memorial of Deputy Surgeon-General W. JOHNSTON, M.D., L.R.C.S.E., Indian Medical Department, Southern District, Malabar and Canara.

HUMBLY SHOWETH,—That your memorialist is a Licentiate of the Royal College of Surgeons, Edinburgh, whose diploma he holds and, by virtue of which, through a Royal Charter, long ago granted to the said College, he has been empowered to practise his profession as a Surgeon in any part of Her Majesty's Dominions without let or hinderance.

2. That your memorialist, while thus practising his profession, as in the preamble above set forth, has been peremptorily required, by the President of the Trichinopoly Municipal Commission, to pay a tax entitled "Tax on professions, trades, or callings," &c., for permission to practise his said profession.

3. That your memorialist, whilst, as in duty bound, he has shown his submission to law by paying this tax, is notwithstanding not the less assured of its inequitable incidence in his regard, infringing, as it does, on the privileges which are the main provisions of his diploma, and which are not, your memorialist humbly submits, to be thus set aside under the operation of an *ex post facto* law, which at the same time infringes on the Royal Chartered rights of his College. Because, your memorialist respectfully submits, that, with the license to practice his profession, which his diploma secures to him, he cannot lawfully be required to obtain another license, such as this "Professional tax" demands of him.

4. That your memorialist prays your Excellency will be pleased to consider his case that he may be relieved from the payment of this Professional tax ; and, further, that it may be so ruled

that a refund of all moneys formerly paid by your memorialist on account of this tax may be made to him.

For which your memorialist will ever pray.

TRICHINOPOLY,
5th August 1873.

(Signed) WILLIAM JOHNSTON, M.D., L.R.C.S.E.,
Dy. Surgeon-General, Indian Medl. Dept.,
Southern District, Malabar and Canara.

From Surgeon-Major G. BIDIE, M.B., Secretary to the Surgeon-General, Indian Medical Department, to Deputy Surgeon-General W. JOHNSTON, M.D., L.R.C.S.E., Indian Medical Department, Southern District, Malabar and Canara, dated Fort St. George, 12th August 1873, No. 5086.

I am desired by the Surgeon-General to reply to your No. 3110 of 5th instant, transmitting a memorial praying for exemption from the Profession-tax levied by the Municipal Commissioners at Trichinopoly, and to point out to you that the tax would appear to be levied under Section 58 and Schedule B of Act No. III. of 1871. Now Clause 2 of Schedule B provides for the tax being levied upon "every Civil and Military Officer under Government whose pay or salary amounts to Rupees 1,500 a-month or upwards." The Surgeon-General apprehends that the tax you complain of is levied under this rule, is in fact an Income-tax, and not strictly a Profession-tax, and is in no way affected by your possessing a diploma or license to practise your profession from any University or College.

2. If the tax has been levied upon you under Clause 3, Schedule B, as a "Practising Surgeon or Physician," the Surgeon-General considers that you would be exempt, inasmuch as that you are debarred by your rank and position, as an administrative officer, from practising your profession, but it would be competent to the Commissioners to assess you at a higher rate under the second heading of Clause 2.

3. The Surgeon-General, therefore, desires me to say that as the law at present stands you are clearly liable to the tax "on arts, professions, trades, and callings" under paragraph 58 of Act No. III. of 1871, and that there are no grounds for a reference of your memorial to Government.

From Deputy Surgeon-General W. JOHNSTON, M.D., L.R.C.S.E., Indian Medical Department, Southern District, Malabar and Canara, to Surgeon-Major G. BIDIE, M.B., Secretary to the Surgeon-General, Indian Medical Department, dated Trichinopoly, 18th August 1873, No. 3206.

In reply to your letter, No. 5086, of 12th instant, in which are indicated the Surgeon-General's views and opinions on my memorial in which I deprecate the exaction of the tax entitled "Tax on arts, professions, trades, or callings," I have the honour to observe—

1*st.*—With reference to the opinion "that the tax is in fact an Income-tax," that this view of the case is, I submit, scarcely tenable in the presence of the fact that this Profession-tax was levied last year when yet an Income-tax was in existence. It is, therefore, extremely improbable that Government should desire to levy two taxes precisely of the same nature—two Income-taxes coincidently with each other. Assuming, for a moment, it to be an "Income-tax," its existence as such was terminated in March 1872, which saw the abrogation of the Income-tax.

2*nd.*—In my view it makes no difference under what Schedule this Profession-tax is levied since, as I believe, I am protected by law against its operation.

3*rd.*—I have, therefore, to request that my memorial may be duly submitted to the notice of His Excellency the Right Honourable the Governor in Council.

Transferred, with the letter from the Surgeon-General, Indian Medical Department, and its enclosures, to the Financial Department.

OOTACAMUND,
8th September 1873.

(Signed) A. C. SILVER, Colonel,
Secy. to Govt., Mily. Dept.

Proceedings of the Madras Government, Financial Department,
11th September 1873.

No. 48. ORDER THEREON, 11th September 1873, No. 1286.

Dr. Johnston will be informed that he is legally liable to the municipal tax in question, and that even if the Government had power to grant the exemption sought, which they have not, they see no reason why a Government official in his position should be exempted.

(True Extract.)

Chief Secretary.

To the Military Department.

Exd. J. Wright.

Govt. of 1873 Madras

FINANCIAL.

To

The Military Department.

Dated September, 11th.

Read.

G.O., 11th September 1873, No. 1286

SEPTEMBER.

Nos. 47-48.

Trichinopoly Municipality.—Dr. Johnstone, Deputy Surgeon-General, Indian Medical Department, ordered to be informed that he is legally liable to the "Profession-tax" demanded by the Municipality.

Adjutant General's Office

Fort Saint George

No. 413 4th September 1873.

From

Capt. J. C. Longcroft.

Dy Adjutant General

To

The Secretary to Government.

Military Depart.

Sir,

I have the honor by order of the Commander-in-Chief to forward for submission to Government a memorial from Dy Surgeon General W. Johnstone, M.D. Indian Medical Department, appealing against the "Profession Tax" levied by the Trichinopoly Municipality.—

2. The Commander-in-Chief is of opinion that as the law now stands, exemption cannot

cannot be claimed.-

3. The decision of Government on the case of Major Monckton, Royal Arty in its Proceedings, dated 12th March 1873, No. 341 would apparently govern the claim now submitted.-

I have the honor to be
Sir
Your Obedient Servant

R. Longeroft Colle
Dy Adjutant Genl

Through the Adjutant General

No. 324

Office of Surgeon General D.M.S.
Fort Saint George 2d. September 1873.

From

Deputy Surgeon General J. L. Rankine
Acting Surgeon General D.M.S.

To

The Secretary to Government
Military Department

Sir,

I have the honor to submit for the consideration and orders of Government a memorial from Deputy Surgeon General Johnston M.D., against the profession tax levied by the Triplicane Municipality.

2. I would solicit attention to my Memo with forwarded letter No. 5086 of 12th August to Dr. Johnston's address and his reply thereto.

I have the honor to be
Sir
Your most Obedt. Servt.

J. Rankine
Dy. Surgeon General
Acting Surgeon General D.M.S.

Rs. 720 Chuk

6.
Fortwarded with Military Dept. letter dated 18th Sept. 1873
G. O. No. 1443 dt 20th Sept. 1873
Rs. 8.
To the Secretary to Govt. M.S.
The Acting Surgeon Genl. D.M.S.
Dated 4th Sept. 1873
Rec'd 8th —
No. 1413
Memorials protesting against the levy of Profession Tax by the Triplicane Municipality.
Surgeon Genl. D.M.S. Johnston
Endorsed Records Department
Returning papers received
Rs. Chuk 720

Sanctioned, with the letter from the Surgeon General Retain Secretary and its Enclosures, to the Financial Department.

Allowed
Secretary to Govt.

Colachamund
5th Oct. 1873.

Transferred

G. 21 French 73 No. 239/40 R.

To, His Excellency the Right Honorable Vere Henry Hobart Lord Hobart, Governor and President in Council.

Fort Saint George

The Memorial of Deputy Surgeon General William Johnston M.D. L.R.C.P.E. L.M. Indian Medical Department Southern Distt. Malabar Coast

Sheweth,

That your Memorialist is a Licentiate of the Royal College of Surgeons Edinburgh whose Diploma he holds and by virtue of which, through a Royal Charter long ago granted to the said College, he has been empowered to practice his profession as a Surgeon, in any part of Her Majesty's Dominions without let or hindrance.

That your Memorialist while thus practising his profession, as in the premises above set forth, has been peremptorily required by the President of the Tribunal for Municipal Commission to pay

pay a tax entitled "Tax on Professions, Trades or Callings" &c. for permission to practice his said profession.

That your Memorialist whilst, as in duty bound, he has shewn his submission to law by paying this tax, is notwithstanding not the less assured of its inequitable incidence in his regard, infringing, as it does, on the privileges which are the main provisions of his Diploma and which are not, your Memorialist humbly submits, to be thus set aside under the operation of an ex post facto law, which at the same time, infringes on the Royal Chartered rights of his College. Because, your Memorialist respectfully submits, that, with the licence to practice his profession, which his Diploma secures to him, he cannot lawfully be required to obtain another licence, such as this "Professional tax" demands of him.

That

(13)

That your Memorialist prays Your Excellency will be pleased to consider his Case that he may be relieved from the payment of this professional tax and, further, that it may be ruled that a refund of all moneys formerly paid by your Memorialist, on account of this tax, may be made to him.

For which your Memorialist will ever pray.

Dublin Co
5th August 1873

William Stokes M.D
L.R.C.S.I.
Dpy. Surgeon General
Inspector Genl
&c &c &c

No. 5086

Surgeon
OFFICE OF ~~INSPECTOR~~-GENERAL, I. M. D.,
Fort Saint George, 12th August 1873.

From Secy to Surgeon
THE ~~INSPECTOR~~-GENERAL OF HOSPITALS,
Indian Medical Department,
Fort Saint George.

To

Deputy Surgeon Genl W. Johnston M.D

SIR,

I am desired by the Surgeon General to reply to your No 3110 of 5th instant, transmitting a memorial praying for exemption from the Profession tax levied by the Municipal Commissioners at Trichinopoly, and to point out to you that the tax would appear to be levied under Section 58 and Schedule B of act No III of 1871. Now Clause II of Schedule B provides for the tax being levied upon "every Civil and Military Officer under Government whose pay or salary amounts to Rs 1500 a month or upwards." The Surgeon General

apprehends that the tax you complain of is levied under this rule, is in fact an income tax, and not strictly a profession tax, and is in no way affected by your possessing a diploma or license to practise your profession from any University or College.

2. If the tax has been levied upon you under clause III Schedule B as a "practising Surgeon or Physician," the Surgeon General considers that you would be exempt, in as much as that you are debarred by your rank and position, as an Administrative Officer, from practising your profession, but it would be competent to the Commissioners to assess you at a higher rate under the 2nd. heading of Class II.

3 The Surgeon General therefore desires me to say that as the Law at present stands you are, clearly liable to the tax "on arts, professions, trades and callings" under para 5 8 of act No. III of 1871, and that there are no grounds for a reference of your memorial to Government.

I have the honor to be
Sir
Your Most Obedt Servant.
Sigd / G. Bidie Surgeon Major
Secy to Surgeon Genl I. M. D

True Copy.
Bidie Surgeon Major
Secy to Surgeon Genl I. M. D

5

19

No. 3206

OFFICE OF DEPUTY INSPECTOR GENERAL, I. M. D.,
SOUTHERN DISTRICT MALABAR AND CANARA,
Trichinopoly, 18th August 1873.

From

Surgn
The Deputy ~~Inspector~~ General, Indian Medical Department,
Southern District Malabar and Canara,
Trichinopoly.

To

The Secy-Surgeon General
Indian Medical Depart
Fort St George

SIR,

In reply to your letter No 5086 of 12th Augt in which are indicated the Surgeon General's views and opinions on my Memorial in which I deprecate the exaction of the tax entitled "Tax on Arts, Professions trades or Callings" I have the honor to observe

1st.- With reference to the opinion "that the tax is in fact an income tax" that this view of the case is, I submit, scarcely tenable in the presence of the fact that this Profession tax was levied last year when yet an Income tax was in Existence. It is, therefore, extremely improbable that Government should desire to levy two taxes precisely of the same nature — two Income taxes co-incidently with each other.—
Assuming, for a moment, it to be an "Income tax", its Existence

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187 .

From

The Inspector-General of Hospitals,
Indian Medical Department,
Fort Saint George.

To

The

Dated
Despatched
Received

No.

Subject.

Rs 8
Letter Stamped Rs 2
12th August 1873

Financial Department. (21)

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Deputy Adjutant General, dated 4th September 1873. No. 413.

Order thereon. Ootacamund. 11 Septr. 1873. No. 1286.

Dr Johnston will be informed that he is legally liable to the Municipal tax in question, and that even if the Govt had power to grant the exemption sought, which they have not, they see no reason why a Govt official

Dr 5791. 1873. Read
Ft St George 4 Sept 1873
Ft St George 11 Sept 1873

1873.

From The Dy. Inspr. Genl., I. M. D.,
Southern District M. & C.,
Trichinopoly.

To The Secretary
to Government
Fort St George

Dated 13 August 1873.
Rec'd 2nd Sept.

Enclosures No.

No. 3206

Subject.

Solicits that Dr Johnston may be informed that he is legally liable to the Municipal tax in question, and that even if the Govt had power to grant the exemption sought, which they have not, they see no reason why a Govt official

Dr Johnston
Dy. Surgeon Genl

Official in his posi-
tion should be exempted.

[redacted]

To

The Military Dept. [illegible]

36 220

[redacted]

Govt. of {1873} Madras.

Financial

To

The Mily. Dept.

Dated Sept. 11. } 1873, No. 1286
Recd.

Nos. 47. 48

Trichinopoly Munsy. Dr. Johnston, Dy. Surg. Genl. I. Dr. Dept., ordered to be informed that he is legally liable to the "Professional Tax" demanded by this Munsy.