

MADRAS RECORD OFFICE.

Government of Madras.

Marine DEPARTMENT.

G.O. No. <i>55</i>	Press M.D.
Dated <i>20. 2.</i>	<i>1861</i>

Not to be folded or roughly handled

*Proceedings of the Madras Government, Marine Department,
20th February 1861.*

No. 27. Read the following Proceedings of Government in the Revenue Department, dated 15th February 1861, No. 357.

Communicating the Order passed on a Resolution of the Government of India regarding the liability of Mechanical Engineers to Income Tax. (Vide Proceedings Revenue Department, dated 5th February 1861, Nos. 197 and 198.)

No. 28. ORDER THEREON, 20th February 1861, No. 55.

To be recorded.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following Papers:—

Proceedings of the Government of India, dated 6th December 1860, No. 11,970, on the letter from the Acting Secretary to the Government of Fort Saint George, dated 24th November 1860, No. 2,237, regarding the liability of Mechanical Engineers to Income Tax.

Fort William, Financial Department.

1. With reference to the above letter from the Government of Madras, the President in Council observes that the liability of Mechanical Engineers to Income Tax depends on the terms of their Covenant. If the Covenant specifies liability to serve at sea then they are exempt. But if their liability so to serve is only incidental to their general engagement to serve Government, then they are not entitled to exemption as a class, an exception being made however in favor of those who are actually engaged on boardship for the period during which they are so serve.

2. Ordered that a copy of the above Resolution be sent to the Government of Madras for information, in reply to their Acting Secretary's letter, No. 2,237, dated 24th ultimo.

3. Ordered also, that a copy of the Resolution and the letter from the Government of Madras, be sent to the Honorable H. B. Harington for the purpose of being summarized.

By order of the Honorable the President in Council.

(Signed) C. HUGH LUSHINGTON,
Secretary to the Government of India.

From Lieutenant-Colonel P. McGOUN, Military Auditor General, to C. G. MASTER, Esq.,
Deputy Secretary to Government, Revenue Department, dated Fort Saint George,
20th December 1860, C.

SIR,

1. In obedience to the Order of Government conveyed in paragraph 6 of No. 2,236 of the 24th November 1860, I have the honor to report on the subject therein referred to.

2. When originally referred for report under Order of Government No. 1,852 of the 12th October 1860, I considered the question at issue set at rest by the decision of the Government of India, and did not therefore enter into its merits. But as this is still desired by Government, I shall now proceed to supply the omission.

3. The Mechanical Engineers, whose cases are specially involved, serve under an Indenture, or Contract, which appears to me to be entirely of a Civil nature. I have had one of their Indentures or Contracts before me, and cannot perceive from the conditions of it, that the contracting party is thereby constituted either a "Naval" or a "Marine" Officer, in the meaning in which I understand these terms to be used in the Clause of the Act which exempts such classes from payment of the Income Tax. It is true they bind themselves to serve on board of ship, and they also bind themselves to accept on their arrival in India an appointment of Warrant ship, "after the manner of the appointment by Warrant of the Officers of the Indian Navy," but I would respectfully submit that their so binding themselves, or so agreeing to serve on board of ship does not constitute them "Naval" or "Marine" Officers. Had it been the intention that they should be so considered it may be naturally assumed that provision would have been made for their being made amenable to the same pains and penalties as "Naval" or "Marine" Officers are, and which in a measure determines the class to which they belong.

4. I would beg, therefore, to submit with all deference that the Mechanical Engineers in question being neither "Marine" nor "Naval" Officers cannot be considered exempt from the payment of the Income Tax.

ORDER THEREON, 15th February 1861, No. 357.

1. The first paper recorded above is a Resolution of the Government of India in reply to a letter * from this Government based on paragraph

* 24th November 1860, No. 2,237, R. D. 4 of the Order of the 24th November 1860, No. 2,236, Revenue Department. The letter in question related

to the exemption or non-exemption from Income Tax of Mechanical Engineers, and the Resolution rules that the liability of Mechanical Engineers to the Tax must depend on the terms of their Covenants; i. e. if the Covenant specifies liability to serve at sea, then they are exempt.

2. The Government have examined the Covenants entered into by the three Mechanical Engineers of the Public Works Department named in the margin; and they find it clearly stipulated in those Covenants that the men shall serve either at sea or on shore as required. These persons, as well as others under similar Covenants, must be therefore considered exempt from Income Tax under Section 9, Act XXXIX of 1860.

3. In the second paper recorded above, the Military Auditor General furnishes the report called for in paragraph 6 of the Order of 24th November 1860, No. 2,236, "as to the terms and conditions on which the Mechanical Engineers in the Ordnance Department are engaged; and how far those terms of service differ from or agree with those of the corresponding class in the Public Works Department."

4. The Indenture to which Colonel McGoun refers in paragraph 3 of his letter, and which he considers to be entirely of a Civil nature, and containing nothing whereby the person concerned is constituted either a "Naval" or "Marine" Officer, or on that account exempt from Income Tax, appertains, the Government observe, to James Flockhart, a Mechanical Engineer in the D. P. W., who came out under the same rules as the others in that Department, and who must therefore be treated in the same manner. With reference to the Military Auditor General's remarks, it is to be noted that, for the purpose of exemption, it is not necessary that Mechanical Engineers should be declaredly "Naval" or "Marine" Officers. It is sufficient, under the ruling of the Government of India, that they should have incurred a "liability to serve at sea."

5. The Government have, besides, had under their consideration the Covenant of a Mr. Richard Davis, an Assistant Supervisor in the Small Arms Branch of the Arsenal at Madras and who is apparently one of the Engineers referred to in Colonel Simpson's letter. There is nothing in his Indenture to afford the slightest reason for exemption from Income Tax.

6. Resolved that this Order be communicated to the Civil Auditor in continuation of paragraph 7 of that of 24th November 1860, No. 2,236, and to the Inspector General of Ordnance and Magazines with reference to his letter of 8th October 1860, No. 145.

(True Extract.)

W. H. Massey

Deputy Secretary to Government.

To the Chief Engineer.

" Civil Auditor.

" Inspector General of Ordnance and Magazines.

" Military Auditor General.

" Military Department.

" Marine Department. ✓

Exd. S. T. Augustin.

July 22. 1861

Marine 1861 8442

Pro: 1861 to 1862
Rev: 84. 357.

July 1861

St. 13th 1861
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Office copies.

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good of India regarding
the liability of Procha-
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come day.

St. 55 - 20 Feb 1861 -
To be recorded.

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