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MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	671	Press ~~Mis.~~
Dated	4-7-	1866

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Department,
4th July 1866.

No. 27. Read the following letter from the Municipal Commissioners for the Town of Madras, to the Chief Secretary to Government, Fort, Saint George; dated Madras, 14th June 1866.

We have the honor earnestly to solicit the consideration of Government to the very grave and serious difficulties we experience in the assessment and collection of the Tax on Trades and Callings, leviable under Sections 43 to 47, and Schedule C, of Act IX of 1865.

2. Section 47 directs that, on or about the 1st day of May in every year, the Municipal Commissioners shall prepare a list of the persons to be taxed.

3. The duty thus entailed on the Commissioners we find, by experience, throws open a wide door to corruption. We are obliged to employ Conicopolies to prepare lists of persons liable to be taxed in each street.

4. We have detected numerous cases where men who should have been taxed have been omitted, and others have been under-taxed, but it is impossible in a large town like Madras to say how many more have escaped detection.

5. Registers, that is to say, the list prescribed by Section 47, are prepared from the reports of these Conicopolies, and notice of the same given to the parties, who almost invariably appeal to us against the statements of our Conicopolies. We hear the Appellants' statements, but have no power to put them on oath, and are obliged to depend on our estimation of their credibility, and a comparison of their statements with the Conicopolies.

6. We have been engaged on this duty for three days in the week since 22nd January, and yet have to this time only assessed the number quoted in the margin, and do not anticipate being in a position to demand the collection of the whole of Madras before the end of the year, although the 1st half-yearly payment should be made on

Class	Rs.
1—3.....	600
„ 2—351.....	17,550
„ 3—697.....	17,425
„ 4—1750.....	21,000
„ 5—1484.....	5936
Total... 4285	62,511

N. B.—Amount collected up to 31st May, Rupees 3013-8-0.

or before 1st June. We further have reason to fear that the collection of the tax, especially from 4th and 5th Classes, will be extremely difficult, and in most cases only to be effected by distraint, which in all likelihood will lead to riot.

7 Again, we experience the gravest difficulty in the application of Schedule C to the several classes liable to the tax. The provisions of the Schedule are so vague and indefinite; so many persons who should be liable, escape taxation, or are under-taxed, while on others the burden is oppressive. This difficulty has attracted the notice of the Magistrates and the High Court, the judgment of which latter body we beg to enclose.

8. The idea of a Trade Tax was taken from the Calcutta Municipal Act, but from it there is a material and (what we consider) a most damaging distinction. By the Calcutta Municipal Act, every Trader is required to *take out a License*, and is thereby compelled to come forward and declare his Trade, and at once pay his tax for the half-year; but, in our Act, every facility is afforded for evasion. We have first to trace out those liable, then ascertain, as well as we can, how he should be assessed, and finally demand payment.

9. The adoption of the practice observed in Calcutta, strengthened by rendering the production of the receipt for the half-year's Tax a *sine qua non* when prosecuting any Civil Suit, would remove much difficulty in the collection of this Tax.

10. The revision of Schedule C is most urgently needed. The whole feeling of the public is against it. Its provisions are found to be so arbitrary, and its application so difficult.

11. The levy of this Tax has been rendered necessary by the imposition of the Town Police on the Municipal Fund, and we would most earnestly solicit Government to consider the advisability of relieving the Public, for this year, from the payment for the Town Police, and foregoing the collection of the Trade Tax, until, in a short Act, Schedule C and Sections 43 to 47 of Act IX of 1865 be carefully revised, and its provisions rendered equable and easy of application.

JUDGMENT.

There are two questions submitted for the opinion of the Court in this case. The second question we may at once answer in the negative. The power of exemption in Section 20 has no application to the case of the appellant. It simply empowers the Municipal Commissioners, in their discretion, to exempt any person from the payment of the whole or part of the rate or tax assessed upon him, on the ground of poverty.

The first question has raised considerable doubt in our minds as to the proper construction to be put on the 2nd Clause in Class IV, of Schedule C, and, dependent upon that, whether any operation can be given to the words in Class V—"every Retail dealer, Manufacturer, Artizan, Trader, or keeper of a shop not included in any other Class."

The Schedule has evidently not been carefully framed, and, read by itself, these words clearly can have no operation as respects a Retail dealer or Shop-keeper, &c., for, except "money changer," the same terms of designation are used in Class IV, and include "every" Retail dealer or Shop-keeper, &c., in the Town of Madras who does not occupy a place of business of the estimated gross rental mentioned in Classes II and III. But it must be assumed that those words were not meant by the Legislature to be mere surplusage, and if, looking at the provisions in the Act, we can discover any reasonable construction by which effect is given to them, we must apply that construction.

Now, reading the Schedule with Sections 45, 46, and 47, the Legislature appears to have thought that some Shop-keepers and Retail dealers, &c., might properly be taxed at an amount not exceeding 4 Rupees, the maximum fixed for Class V, and to have intended that the Commissioners should, subject to appeal, consider and determine in the case of each individual Shop-keeper or Retail dealer, &c., not liable to be taxed under Clauses 2 and 3, whether he ought to be excluded from Class IV, and included under Class V. By Section 44 the maximum sum applicable to each of the Classes in Schedule C is to be approved of by the Governor in Council, and having regard to such sums, the Municipal Commissioners are required by Section 45 to "determine under which of the Classes mentioned in Schedule C, to this Act annexed, every person liable to be taxed as aforesaid shall be assessed"; and when for that purpose the Schedule is looked at, it is found that Class V, as well as the other Classes, contained a description in terms applicable to Shop-keepers and Retail dealers. The Schedule designates, under Classes, the "Arts, Professions, Trades, and Callings," which are made subject to different amounts of taxation, and the Commissioners are to consider under which of the Classes containing a designation of his profession or business each rate-payer should be included. There are, no doubt, several persons in a small way of business as Shop-keepers and Retail dealers, to whom the tax assessable under Class IV would be a grievous oppression, and it was almost of course that, when imposing a general tax of different amounts, provision should be made for including such persons in a Class assessable at a very moderate sum.

Such being the object and intention fairly deducible from the provisions in the Sections relating to Schedule C, we think the words in Class V were meant to have operation, and that they can be so construed consistently with the other parts of the Schedule. The 2nd Clause of Class IV may and should, we think, be read as intended to be confined to such Retail dealers, &c., as ought, in the judgment of the Commissioners, to be assessed in the amount of the tax fixed for that Class; and, so read, a consistent and reasonable meaning and operation is given to the words of the 2nd Clause in Class V, by applying them to all Retail dealers and Shop-keepers, &c., whom the Commissioners consider ought not to pay a higher tax than 4 Rupees, and therefore do not include in any other Class.

For these reasons, we come to the conclusion, after a good deal of doubt, that the Commissioners are not precluded from assessing the appellant as a Retail dealer under Class V, and this is all that the Court can on the present special case properly decide under the first question.

Whether individuals designated in both Classes IV and V ought justly and fairly to be assessed under Class V, and not under Class IV, is a further question of fact for the Commissioners' decision in the first instance; and before determining it, they are bound, in each case, carefully to consider the nature of the business carried on, and the probable returns derived from it, relatively to the other descriptions of employment and business mentioned, and particularly the defined amount of official salary which appears in the first designation given in each Class.

There ought not to be any difficulty in determining whether Retail dealers, the nature and extent of whose business is sufficiently ascertained, should justly be classed with persons in the receipt of salaries of 50 Rupees monthly, rather than with those receiving 100 Rupees a month; and certainly so far as we can judge from the facts and figures stated in the case, it strikes us that the Appellant should be in the former Class.

But the determination of the Commissioners is not final. An Appeal to two Magistrates against any rate or tax, assessed or demanded by the Commissioners, is given by the effect of Sections 63, 64, and 65; and the latter Section provides that the assessment of any rate or tax, when no appeal therefrom is made, and the adjudication of any appeal "shall be final and conclusive." Those Sections are loosely framed in general terms, and leave it open to a person who is aggrieved by a rate or tax, to raise for decision an appeal, any objection affecting the validity of the rate or tax, or the Appellant's liability to the assessment made upon him. We are, therefore, of opinion that it is for the Magistrates in this case to adjudicate finally on the Appellant's objection, that he ought to be assessed under Class V and Class IV, and after reading our judgment they will probably have no difficulty in agreeing on the point.

(Signed) C. H. SCOTLAND.

() A. BITTLESTON.

No. 28. ORDER THEREON, 4th July 1866, No. 671.

In the above letter the Municipal Commissioners for the Town of Madras report the difficulties they experience in assessing and levying the duty on Arts, Trades, &c., under Act IX of 1865 (Madras), and request that, pending the revision (which they suggest) of Schedule C, and certain Sections of the Act, the collection of this duty may be suspended, and the charge for the Town Police remitted during the current year.

2. The Commissioners state that, although they have been engaged on these assessments for three days in each week since January last, they have as yet made only 4285 assessments, and they do not anticipate being in a position to complete the assessments for the whole town before the end of the year. And when this duty is finished, they apprehend that the tax will have to be realized in very many cases by distraint, "which, in all probability, will lead to riot."

3. The Governor in Council observes that the difficulties which the Commissioners experience, so far as they may be caused by any defect in the law

itself, can only be remedied by the legislature. The Government have not the power of altering either the Act or its Schedules.

4. The Governor in Council is altogether unable to admit that the difficulties mentioned by the Commissioners are such as to warrant the adoption of the measure they recommend.

5. The assessment and collection of a tax which falls upon a large number of persons in any of the lower orders must naturally be a troublesome and laborious operation, especially on its first introduction. Attempts at evasion, mistakes, and misconduct on the part of the Agents employed are to be expected at the outset; but these will diminish as experience is acquired.

6. The tax is certainly not burdensome if assessed on those to whom it is intended to apply—the rate on the lowest class in the Schedule being only 5½ Annas per mensem; and the object for which the recent additional taxation has been imposed is just and equitable.

7. Under these circumstances, the Government cannot, for a moment, entertain the proposal of the Commissioners. If it should unfortunately happen, as the Commissioners seem to anticipate, that the collection of the Tax will lead to rioting, such, like any other, resistance to the Law will be firmly repressed.

8. The Governor in Council considers it desirable, however, that the Schedules of the Act should be revised in such a manner as to leave no room for reasonable doubt as to the classes which come within its scope, and that, where susceptible of improvement in other respects, the Act itself should be amended. With this view, the Governor in Council resolves to appoint the gentlemen marginally named to consider and report on the subject.

The Honorable R. S. Ellis, c. B.
Colonel J. Temple, } Members.
Major C. S. Hearn, }

9. Meanwhile, however, the Commissioners must carry out the Act by completing the Schedule of persons liable to taxation, by enforcing it on those who are in their judgment capable of payment, and exonerating the poorest individuals only, in conformity with the powers granted to the Municipal Commissioners by Section 20 of the Act. In carrying out this duty, the Municipal Commissioners are exhorted to devote all the time to it which can be spared from other official business, even should that exceed the number of three sittings per week, which they appear to consider an unusual exertion, and to employ an agency in framing the list of persons liable to taxation in which they and the public can have perfect confidence.

(True Extract).

Acting Chief Secretary.

To the Municipal Commissioners.

„ Honorable R. S. Ellis, c. B.

To Colonel J. Temple.

„ Major C. S. Hearn.

Exd. J. H. Burns.

For the
In this letter the
Municipal Board
bring to notice the
difficulties they ex-
perience in assessing
and collecting the
License Duty on the
Trades & Professions
& Cattle.
The first difficulty
lies in their having
to hunt up the
persons who have
payable to the tax.
The second is the diffi-
culty in the defective
character of the
Schedule of the Mu-
nicipal Act (12 of 1865)
There it is shown
can only be remedied
by legislative action

the Govt. having no
power to alter the
Schedules. This
will necessarily
take time, and
mean while the
Com^{rs} declare that
they have the greatest
difficulty in ma-
king the assessments
and they fear that
when ^{they} come to realise
them by distraint
as they will have to
do freely in the case
of Classes 4 & 5,
risks will ensue.
And they urge the
Govt. to relieve the
Municipality for
this year from
bearing their share
of the burden of the

Town Police & forego
the collection of the
Licence Tax until
the Law can be
amended.

The Police charges
which the Municipi-
pality have to de-
pay amount to
Rs. 103,000 per an-
num and they have been
paying the monthly
proportion since
Jan'y last.

The Licence Tax
was estimated to
be Rs. 150,000
but the Com^{rs} have
been at work - three
days weekly - since
Jan'y 22nd and
have only collected
Rs. 12,571 - of which

\$27,000 is in the
specially obvious
chapters 4 & 5.

It is a pity
that the Court has
been so long in ma-
king this decision
and they place
put in an awkward
dilemma.

It is only they who
appeal and who have made
the decision.

1. There is the Law
which declares that
from the commence-
ment of the Act
(Chap. 1865) the Court
shall pay
their money to the State
"within the last
7 days of every month."
This is not being paid.
But may, no doubt,
be over a month.

9
could be paid
II. There is the Supreme
Court. They have proposed
on this change over,
Louisiana probably has
been expected to pay
a large sum of money.
It will be necessary
to persuade them
to give up the 2 1/2 per cent
but this can be tried
and possibly they
may prefer this to
having the new system
imposed by the State.
III. There is the fact
that the very same
law on the 1st of January
is now over - or ex-
actly the same con-
ditions forms a part

been a ~~thorough~~ test
and his victory
so far to alleviate
distress and the
Crisis may be true.
But you with
their ~~efforts~~ efforts
and ~~efforts~~ efforts
to ~~bring~~ bringing
their ~~progress~~ progress in the
this ~~city~~ city of
Paradise. ~~of~~
consider the recom-
mendations of
the ~~could~~ could only
be a ~~test~~ test in which
the Legislature can
find ~~the~~ the
of the ~~change~~ change
and ~~the~~ the
of the ~~change~~ change
of the ~~change~~ change

I do not see that
classification makes
the 2 lower classes but
is entirely abandoned.
See a separate note as
to the intent of Claps V

There will be an improvement -

There is no doubt - new pay.

- like I wish the Com^{rs}
may happen to
be able to find

There are several
points in a brief
the Law may be
answered with
and an eye. &c.

Requiring traders
(at the City's request)

to the extent their
licensing is involved

Raymond

Calcutta & Bombay

and as times if

Carriage - Luke

王明

do not know.

Leather the No.

into the apple

and cat 10

light in the way -
as in the way of

But no nothing
can be done
freedom in the
way of the
the law, the
need not be
discussed

I find even
the law of the
be found by
the law of the
the law of the
the law of the
the law of the
the law of the

the law of the
the law of the
the law of the
the law of the
the law of the
the law of the
the law of the

I think so.

Minute

It seems to me that
what the Municipal Com.
inferior ask, viz that the
public ^{of Madras} may be relieved this
year from the payment of
the Town Police, and that
the collection of the trade
tax be for a time foregone -
it is wholly beyond the power
of this Govt. to grant. Both
the partial defraying of
the charge of the Police
and the levy of the trade
tax are integral and
essential parts of the Act,
and we have no authority
to set the law aside. It
is out of all probability
that the Supreme Govt
whose financial calcu-
lations have been based
on the supposition that

would, as it clearly should,
pay in part for its Police,
will endure to have the
whole expense for this
year thrown upon the
general revenue. Nor are
they likely to approve of
the collection of a tax being
foregone because its assess-
ment and levy is a difficult
and troublesome matter,
and is not popular among
those affected by it. Neither
do the Municipal Commrs.
appear to me to show any
good reason why this
should be done. The assess-
ment and collection of
a tax which falls upon
a large number of persons -
many of the lower orders -
must naturally be a
troublesome and laborious
business especially on its
first introduction. There

will be many attempts
at evasion, some mistakes,
occasional acts of hardship,
misconduct on the part of
the Native Agency employed.
All these are inseparable
from the first carrying
out of a measure of this kind,
but they will gradually
diminish year by year if
they be firmly dealt with
at first. But any weakness
or hesitation will only
render subsequent proceed-
ings more difficult, not
to mention the evil effect
which they will have
on the Municipalities in the
Provinces.

I do not see the
advantage of appointing
a Commission to revise
Schedule C. and parts of
the Act. I fear it would
merely encourage the
incompetence, how do I
perceive

perceive how the levy of the trade tax could legally be confined even for a time to three out of the five classes enumerated in Schedule C.

The Municipal Comm. Commissioners who must know best how the shoe pinches might suggest any amendments that seem to them advisable in the Schedule or corresponding sections.

It does not strike me that there is much in fault in the Schedule. That it is vague and general in its terms is in one respect an advantage as it gives greater latitude (under Sec 15) to the Municipal Commissioners. They should apply the two last classes liberally, and if there be any doubt whether a
man

man comes under C or stick him in Class V. The tax on the latter class is only 4 Rs a year or $5\frac{1}{3}$ annas per month, which surely cannot be burdensome on any person rightly falling under it.

In my opinion the Municipal Commrs should be informed in reply to their letter that the Govt cannot comply with the requests preferred at the end of it. that they must trust to the Municipal Commissioners carrying out the Act as it stands with tact, moderation and firmness and that they will be ready to consider and if necessary take

the legislative action
on any amendments in
the Schedule or Sections
with the Municipal
Commissioners may have
to prepare without however
stopping the operation
of any part of the Act
meantime.

(Signed) T. P.

Judging from what one hears
in almost every direction, it is
not the weight of the taxation an-
nounced by Claps & of the C Schedule
of the act, which has created the
dilemma now reported { the
Mun: Comr, but the stringent,
improper, manner in which attempts
have been made to bring the work-
paddy traders, street keepers, and
artisans, under the provisions of
Claps 4 and 5 of that Schedule. Claps &

The tax rate of legation is only
4 Rs. & 4 annas, and reading its three
clauses together, it seems to be
quite clear that individuals of
the ^{calling} ~~calling~~ ^{profession} referred to are those only
whose ~~calling~~ ^{profession} subjects go to place
them on an equality, as respects taxing
position, with persons whose salary
per annum is not less than 50 Rs.

There ought not, I think, to be
any serious difficulty in determining
what to include in Schedule C Claps
&, if proper agency be employed.
For after all, the task is not a
more difficult one than fixing the
assessment on many hundreds of

of the old Mutorbha payers, not
one of whom, so far as my experience goes,
was ever yet satisfied with his business
yearly payments - But if batches
of Couacupellys, supplied for the women,
are sent round to select & reject,
and make capital out of the power
conferred to them; and if six
Couniformers live only three days
a week instead of six, to the duty
of supervising the deeds of these
Couacupellys, how easy to under-
stand how present difficulties
have arisen.

I am quite aware that special
agency in aid of the M. Comrs was
unavoidably necessary for the
publication of the required lists;
but ~~the~~ ^{temporary} Couacupellys were
not, being then, proper media
for bringing before the M. Comrs
the information they had to
procure - Still, as the thing has
been done and the facts are now
set, that special assistance
is wanted to keep matters quiet,
I am unable to suggest any
better course than that which
is proposed in the accompanying
memo. from Mr. Linn.

A Committee formed, as suggested,
of ~~the~~ ^{the} M. Comrs, at Dampier

and Mayor & Mayor would, I feel
satisfied, carefully analyse the
parts of the bill which are considered
objectionable, & lay before Lord
valuable suggestions for their
amendment - There would be
brought into the Legislature
Council when it meets, some 3
months hence, after being put
into proper legal shape by
their Secretary, Mr. O'Connell.

Among others, the attention
of the Council should be drawn to this wording
of Section 63 which leaves it doubtful
whether an appellant to the Bench
of Masters can be heard against his
inclusion in any class whatever
declared liable to taxation, or against the
amount demanded from him, or
on both points.

W.R.

No 671 of 4 July 1866

In the above letter
the Municipal
Council for the Town
of London report
to the effect that they
experience in ad-
dressing & ferrying
the duty on Arts,
Trades & under
Act IX of 1865 (Ma-
king and expediting
the duty on the
value of the goods
they are to be
sent to the duty
on the collection of
this duty may be
simplified and
the charge for the
Low Police be removed

WRL

During the current
year.

The Com^{rs} state
that although they
have been engaged
in these assessments
for 3 days in each
week since Jan^y
last, they have as
yet made only
4285 assessments
and they do not
anticipate being
in a position to
complete the as-
sessment for the

session for the
whole town before
the end of the year.
And when this
fact is pointed
out, they apprehend that

the result will be
many cases of
disturbance which
in the probability
will lead to riot.

The principal
that the difficulties
which the Com^{rs}
experience - so far
as they may be
caused by any
defect in the law
itself, cannot only
be remedied by the
Legislature - The
fact here is that the
power of obtaining
either the Act or
its schedules.

The principal
difficulty is
to admit that the
difficulties mentioned

by the Com^{rs}. are
back as far as
the adoption of
the measure they
recommen^d.

The assessment
and collection of
a tax to meet the
expense of a large num-
ber of persons in
any of the lower
orders - must nat-
urally be a trouble-
some & laborious
operation, especially
in its first intro-
duction - A number of
attribution - mis-
takes & miscon-
ceptions on the part
of the Com^{rs} to employ

applied - then to
show it is intended
to apply.

but these with the
revenue as expe-
rience is deficient.

The Tax is certainly
not burdensome to
the rate on the lowest
class in the Schedule
being only 5% annu-
per man serv.

And the object ~~of~~
which the recent
a deliberation has
been imposed
is just & equitable.

Under these cir-
cumstances of the
present, cannot for a
moment entertain
the prospect of the
Com^{rs}. If it should
unfortunately happen
as the Com^{rs} seem to
anticipate that the

collective for the Law
will think of nothing,
which is like any
other. There is no doubt
the Law will be finally
(strongly) represented
to far from inducing
the fact - which is
consideration is the
strongest reason
for enforcing laws
which the equity
of which is un-
questionable.

That could be
adduced for
proving by
enforcing a law
the equity of which
is unquestionable.

34
It is desirable however
that the Schedule
of the Act should be
revised in such a
manner as to leave
no room for doubt
as to the classes
which come within
its scope - and
that where pos-
sible the uniformity
in other re-
spects, the Act itself
should be amended.
With this view the

Joint Committee to
advise the further
amendment of the
Act have been
appointed on the
subject.

Meanwhile how-
ever the Com^{rs} must
carry out the Act

The Hon^{ble} R S Ellis. C.B.
C. J. Leach }
Messrs C S Brown }

with permission
besting of large
portion of their time
to it in the district
and in playing a
careful little game

W.B.
Shaw

Gravely

have sufficient confidence
in the
and S. D. ...

by completing the
schedule of persons
liable to taxation
by enforcing it on those
who are ~~the best of~~
them in their judgment
capable of payment and
incarcerating the poor
individuals in the V.
days in conformity with
the powers granted to
the Municipal Commission
by section 20 of the act.
In carrying out this duty
the Municipal Commission
are expected to
devote all the time to it
which can be spared
for other special business
work should that exceed
the number of three attorneys
per week which they
appear to consider an
unreasonable exaction and to
employ an agency in
drawing the list of persons
liable to taxation which

Public Department

1867

Proceedings of Govt

Dated 4th July 1867

No 161 of 1867
" " 370 of "

Passing orders on the
letter from the Municipal
Commissioners Madras
bringing to notice their
objections in regard
to the levying of the taxes on
Trades and Callings in the
Presidency. —