M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1529 Press ~~Mis.~~

105-106

Dated 9 - 11 - 1859

Not to be folded or roughly handled

No. 105. Read the following letter from H. D. PHILLIPS, Esq. ; to J. D. BOURDILLON, Esq., Secretary to Government Fort St. George ; dated Madras 7th November 1859.

I have the honor to reply to your letter dated the 24th September last, in which I am requested to state my opinion of the Draft Act for "Licensing Trades and Professions" fully and freely and in concise language.

Preamble. It has long been my desire to see some provision made for taxing those Trades and Professions which hitherto have been entirely exempt from making any direct contribution towards the expenses of the State. The Draft Bill appears to me to supply what was wanting, effectually and fairly.

Section II. The retention as a source of revenue, of the Moturpha levied under Regulation V. of 1832, is, I consider, desirable. In this respect, I know I am opposed to many high and experienced authorities, I, nevertheless, believe the tax to be a just one when properly and carefully levied, as it might long ago have been, had there not been so much agitation in regard to its abolition.

Section VII. I fail to comprehend the value of a notice of 21 days, prior to the expiration of a License, of an intention to renew it. Under the operation of the rule, Collectors will be overwhelmed with such notices. If the object of requiring the notice is to supply to the Collector an opportunity for ascertaining whether there has been any change for the better in the status of the parties licensed by him, he will scarcely be able to do the needful in a period of only 21 days. If it be desired by it to force renewal of licenses simultaneously, as much as possible, I apprehend that this result would better be obtained by imposing a penalty on those who failed to apply for renewal within some specific time after the commencement of a fresh year.

Section XI. I think this Section requires some explanation in regard to the word "Chowdry." As a general rule, it is desirable to avoid the use of vernacular terms where an English corresponding designation can be found. If none can be had, one might be framed. Whether or not, I certainly doubt whether the meaning and intent of "Chowdry" will be appreciated and understood in all the Presidencies to which the Draft Act is applicable.

Section XIV. I am averse to the conspicuous exhibition in the Collectors' and Thaseldaree Cutcherries or elsewhere, of the lists referred to. It would suffice, I think, to hold them available for inspection by all persons who might attend at these offices with a wish to inspect the lists.

Sections XVI. and XIX. It occurs to me that these two Sections might be converted into a single one by a declaration that the appeal for which they provide, be made to the authority who in the ordinary course of Revenue administration would be competent to receive appeals from the decisions of the Collectors or other officers to whose orders exception is taken.

Section XXI. The measure proposed for legalization under this Section, trenches materially on the civil rights of individuals seeking to recover money due to them. The proof to be adduced to the satisfaction of the Judge must be elicited by an in limine enquiry that scarcely belongs to a judicial officer seated on the bench. I would therefore restrict the rule which the Section makes, to those suits only in which it may be pleaded by the Defendant that the Plaintiff has not obtained the prescribed license, and leave the proof of the bar to the litigant raising it.

Section XXVII. Premising that my remark has no reference to officers of the army not on the staff, or to private soldiers, I am of opinion that the exception to be legalized by this Section, unfairly exempts from the operation of the new law, persons who under the protection of an Act of Parliament receive salaries of very large amount and are essentially very proper objects for the application of the proposed tax. As, however, nothing can be done in this country to bring them within reach of the new system without a modification of the Acts by which they are protected, I am satisfied that the local Act will be regarded as unjust and unequal in its effect unless early steps be taken to secure such modification of the Acts of Parliament as may be found needful.

Adverting to the outcry which seems to have been raised relative to the non-inclusion of certain classes in the operation of the Act, I may be allowed to express the opinion that the proprietors of permanently assessed estates are properly exempted from the new tax.

No. 106. ORDER THEREON, 9th November 1859, No. 1529.

Ordered to lie over.

(Signed) J. D. BOURDILLON,
Secretary to Government.

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Preamble. It has long been my desire to see some provision made for taxing those Trades and Professions which hitherto have been entirely exempt from making any direct contribution towards the expenses of the State. The Draft Bill appears to me to supply what was wanting, effectually and fairly.

Section II. The retention as a source of revenue, of the Moturpha levied under Regulation V. of 1832, is, I consider, desirable. In this respect, I know I am opposed to many high and experienced authorities, I, nevertheless, believe the tax to be a just one when properly and carefully levied, as it might long ago have been, had there not been so much agitation in regard to its abolition.

Section VII. I fail to comprehend the value of a notice of 21 days, prior to the expiration of a License, of an intention to renew it. Under the operation of the rule, Collectors will be overwhelmed with such notices. If the object of requiring the notice is to supply to the Collector an opportunity for ascertaining whether there has been any change for the better in the status of the parties licensed by him, he will scarcely be able to do the needful in a period of only 21 days. If it be desired by it to force renewal of licenses simultaneously, as much as possible, I apprehend that this result would better be obtained by imposing a penalty on those who failed to apply for renewal within some specific time after the commencement of a fresh year.

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Section XXI. The measure proposed for legalization under this Section, trenches materially on the civil rights of individuals seeking to recover money due to them. The proof to be adduced to the satisfaction of the Judge must be elicited by an in limine enquiry that scarcely belongs to a judicial officer seated on the bench. I would therefore restrict the rule which the Section makes, to those suits only in which it may be pleaded by the Defendant that the Plaintiff has not obtained the prescribed license, and leave the proof of the bar to the litigant raising it.

Section XXVII. Premising that my remark has no reference to officers of the army not on the staff, or to private soldiers, I am of opinion that the exception to be legalized by this Section, unfairly exempts from the operation of the new law, persons who under the protection of an Act of Parliament receive salaries of very large amount and are essentially very proper objects for the application of the proposed tax. As, however, nothing can be done in this country to bring them within reach of the new system without a modification of the Acts by which they are protected, I am satisfied that the local Act will be regarded as unjust and unequal in its effect unless early steps be taken to secure such modification of the Acts of Parliament as may be found needful.

Adverting to the outcry which seems to have been raised relative to the non-inclusion of certain classes in the operation of the Act, I may be allowed to express the opinion that the proprietors of permanently assessed estates are properly exempted from the new tax.

Exd. H. M. Elliot.

From A. D. Phillips Esq^re
Civil Service

To J. D. Bourdillon Esq^re
Secretary to Government
Fort St George.
Madras.

Sir,

I have the honor to reply to your letter dated the 24th September last in which I am requested to state my opinion of the draft Act for "Licensing Traders and Professions" fully and freely and in concise language.

Preamble. It has long been my desire to see some provision made for taxing those traders and professions which hitherto have been entirely exempt from making any direct contribution towards the expences of the State. The draft Bill appears to me to embody what was wanting, effectually and fairly.

Section II. The retention as a source of revenue, of the Moturpha levied under Regulation V of 1832, is I consider, desirable. In this respect, I know I am opposed to many high and experienced authorities. I, nevertheless, believe the tax to be a just one when prudently and carefully levied as it might long ago have been, had there not been so much agitation in regard to its abolition.

Section VII. I fail to comprehend the value of a Notice of 21 days prior to the expiration of a License, of an intention to renew it. Under the operation of this rule, Collectors will be overwhelmed with such Notices. If

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seems to have been carried relative to the non inclusion of certain classes in the operation of the Act, I may be allowed to express the opinion that the proprietors of permanently assessed Estates are properly exempted from the new Tax.

I have the honor to be
Sir
Your most Obedient Servant.
H. D. Phillips
Civil Service.

Madras.
7th November 1859.

No. 1529.
ordered to lie over.

Pensions 1859 Returns
Rec'd 9th Nov. 1859
No. 2037.
From
H. S. Phillips Esq.
Civil Service
To
C. B. Saunders Esq.
Secretary to Govt.

Relief 7th Nov. 1859.
Rec'd

No. 1529-9th November

Validity of Decision as regard to the Orphan Relief Fund
Civil Service Trades and Professions.

Copy

Fort St. Geo.
9th Nov. 1859.