Reserve consultation

No. 665

Dated 11th to 17th May 1850

No. 32. Read the following letter from J. D. SIM, Esq., Secretary to the Board of Revenue; to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department; dated 28th April 1859, No. 1465.

In reference to the Extract Minutes Consultation of Government, No. 247, Revenue Department, under date the 26th February 1859, I am directed to submit Draft of an Act providing for an excise of Salt, which, in accordance with the instructions of Government, has been prepared by Mr. Mayne.

2. As the present Draft contains no new provisions, except the usual one for limiting the period during which an officer acting under statute can be sued in the Civil Courts, the Board refrain from offering any further remarks on the subject.

AN ACT TO LEVY A DUTY BY WAY OF EXCISE ON SALT MANUFACTURED IN THE PRESIDENCY OF FORT ST. GEORGE.

Whereas it is expedient that the Government Monopoly of Salt within the Madras Presidency shall cease, and that an Excise duty be levied upon all Salt manufactured therein, it is enacted as follows:—

Repealing Clause.

I. The several Acts and Regulations mentioned in the Schedule A hereunto annexed, are hereby repealed, except so far as they repeal the whole or any part of any other Act or Regulation, and except as to any offence which shall have been committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Collector to grant Licenses.

II. It shall be lawful for the Collector to grant Licenses for the manufacture of Salt within his District to such persons as he shall think fit, and such License shall contain the name of the person or persons to whom it is given, and shall specify the pan or place at which the manufacture is to be carried on, and shall embrace such conditions as the Board of Revenue may from time to time prescribe.

Penalties for manufacturing without License.

III. Any person manufacturing Salt without a License, or violating the conditions of his License, or knowingly aiding any person in so doing, shall be punishable with imprisonment, with or without hard labor, for a term not exceeding three months, or to a fine not exceeding Rupees 500, or to both, and further the pan or place of manufacture may be suppressed, and the Salt itself confiscated by the Collector.

Licenses to be granted for existing Salt works.

IV. A License shall not be refused for manufacturing Sea Salt at any pan at work at the time of introducing such excise, unless the pan shall remain unworked for three consecutive seasons.

Collector may suppress Salt works.

V. The Collector, under orders from the Board of Revenue, may suppress any Salt work which on an average of three consecutive years shall not have produced yearly 5,000 Indian Maunds of Salt, and may refuse to grant a License when the proposed place of manufacture is deemed objectionable by him.

Place of Storing Salt.

VI. The Salt shall be stored at a spot or spots selected from time to time by the Collector, or other duly authorized officer, as near as convenient to the place of manufacture.

Officer to exercise supervision.

VII. The Collector shall station at each Salt work, one are more Officers for the due supervision of the manufacture, production, store and sale of Salt, and the collection of the Excise duty; and such Officers shall have free passage over such works at all times.

Duty of 12 annas per Maund.

VIII. An Excise duty of 12 annas per Indian Maund shall be levied on all Salt manufactured in the territories subject to the Government of Fort St. George at the time of sale.

Permit for removal.

IX. After the Salt has been weighed, and the duty thereon paid, the person to whom it may be delivered, shall receive a permit authorizing its removal from store, and such permit shall specify the quantity to be removed and the Excise duty levied thereon.

Preventive Stations.

X. Around each Salt work and Store, Preventive stations shall be established by the Collector at which the permit shall be delivered up, and the Salt, if agreeing with the permit allowed to pass, after which it shall not be liable to further interference on the part of the Government Officers.

Salt manufactured in the Collectorate of Madras.

XI. No Salt manufactured at Pans under charge of the Collector of Madras, shall be removed from the place of manufacture without a permit; and all Salt in excess of one Indian Maund found within two miles of such Pans, and not being in an authorized Store, or in the possession of a person holding a permit for the same, shall be liable to confiscation, together with the vehicles, boats, animals and packages employed in its conveyance.

Salt Imported by Land.

XII. Salt of whatever description, the produce of any Foreign Territory or Native State, when imported by land shall be imported by certain routes *only* to be notified in the Official Gazette, and shall be charged a duty of customs of 12 Annas per Indian Maund, leviable at such places on the Frontier as the Government may determine, and on such payment being made a certificate shall be granted stating the quantity of Salt passed and the customs duty levied.

Salt Imported by Sea.

XIII. Salt shall only be Imported by Sea into the Madras Presidency at such Ports as may from time to time be notified in the Government Gazette, and shall be charged a duty of 12 annas per Maund payable at such Ports, and on such duty being paid a certificate shall be granted, as provided in the preceding Section.

Penalties for breach of Act.

XIV. Any person who shall evade payment of the duties imposed by this Act, or who shall remove any Salt without the permits hereby rendered necessary, or who shall import Salt by land or by sea, by any routes, or at any Ports not legally sanctioned for that purpose, or who shall pass any Salt so imported without the proper certificates, or who shall attempt to commit any of the above acts, or who shall aid any person in such commission or attempt, shall be punishable with imprisonment, with or without hard labour in irons, for a term not exceeding three months, or to a fine not exceeding Rupees 500, or to both, and the Salt shall be liable to confiscation together with the vehicles, boats, animals, and packages employed in its conveyance.

Granting time for payment of duty.

XV. It shall be lawful for the Governor in Council, from time to time by Public Notification, to authorize officers concerned in the collection of the Salt Revenue to grant time for the payment of duty, on such conditions, and under such circumstances as may be declared; and every person to whom such time is allowed shall enter into a bond conditioned for double the amount of the duty ultimately payable, and with or without sureties at the option of the officer accepting the same; and such bond may be according to the form given in Schedule B of this Act.

Drawback of duties on Exportation.

XVI. It shall be lawful for the Governor in Council from time to time by Public Notification, to direct that the whole or any part of the duties paid or payable upon Salt under the provisions of this Act, shall be returned or remitted to the holder thereof, on his undertaking to export the same to some specified place beyond the limit of the Madras Presidency, and the person procuring such remission or return shall enter into a bond conditioned for double the amount of the duty so returned or remitted, and with or without sureties at the option of the officer accepting the same; and such bond may be according to the form given in Schedule C of this Act.

Proceedings of the Madras Government, Revenue Department, from 11th to 17th May 1859

Enforcing Bonds.

XVII. All bonds given under this Act may be realized by seizure and sale of the property of the parties executing the same, under a warrant to be granted by the Collector of the District, or by any other person discharging the duties of Collector in the place in which such parties reside, and such warrant may be in the form given in Schedule D of this Act, and interest on the amount of duty actually due, and all costs of enforcing payment may be included in the warrant; provided always, that where any fraud may have been practised upon Government in obtaining a return or remission of duty, or delay in payment thereof, execution may issue for the full amont of the penalties of the bond.

Obstructing Salt Officer.

XVIII. Whoever intentionally obstructs any Officer in the exercise of any powers given by this Act to such Officer, shall be punished with imprisonment, with or without hard labor, for a term not exceeding three months, or fine not exceeding 500 Rupees or both.

Police are to assist Salt Officers.

XIX. All Police Officers are required to aid the Salt Officers in the due execution of this Act, upon notice given, or request made by such Salt Officer, and any Police Officer, who without lawful excuse shall refuse or neglect to assist as aforesaid, shall be liable to imprisonment for a term not exceeding three months, or fine not exceeding Rupees 500 or both.

Unlawful acts of Salt Officers.

XX. Whoever being an Officer appointed under the authority of this Act, shall directly or indirectly accept, or obtain, or attempt to obtain from any person any property as a consideration for doing or forbearing to do any official act, or shall practise, or attempt to practise any fraud for the purpose of injuring the revenue, or shall abet or connive at any such fraud, or at any attempt to practise any such fraud, shall be punished with imprisonment, with or without hard labor in irons, for a term not exceeding two years, or fine not exceeding Rupees 1,000 or both.

Power of confiscation.

XXI. All Confiscations under this Act shall be adjudged by the Collector, subject to an appeal to the Board of Revenue within two months.

Grant of fines, &c. informers.

XXII. The authority deciding the case may, at his discretion, award the whole, or any portion, of the fines levied, or of the proceeds of any property confiscated under the provisions of this Act, to the party who seized the property, or who gave the information which led to the conviction, provided always, that no money shall be paid over to such person, during the time allowed for appeal, or pending appeal, where any shall have been commenced.

Limitation of action, &c.

XXIII. All actions for damages, and all prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the provisions of this Act, shall be commenced within six months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof shall be given to the Defendant one month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the Defendant; provided always, that where the matter of complaint shall have arisen in the Collectorate of Madras, such action or prosecution shall be instituted in the Civil or Sessions Court of Chingleput.

Plea that act was done under order of a Superior.

XXIV. Where any legal proceedings are taken against any person for any thing done, or intended to be done, under the provisions of this Act, it shall be lawful for the Defendant to plead that the act complained of was done in good faith, under the order of his superior officer; and upon establishing such plea, the Defendant shall be entitled to a decree in his favour, although the superior officer had no jurisdiction to make such order; provided always, that nothing in this Section shall affect any remedy which the party injured may have against the authority who gave such order; provided also, that this Section shall not apply where a suit is brought

against a Collector, for acts done under the orders of the Local Government, or of the Board of Revenue.

Jurisdiction of Supreme Court ousted.

XXV. The Supreme Court shall have no jurisdiction to enquire into any act, matter, or thing done, or intended to be done, under the provisions of this Act, and this defence may be set up by way of demurrer, where the facts appear upon the record, or by way of plea to the jurisdiction; and such plea shall be conclusively proved by the production of a certificate, purporting to be signed by a Secretary of Government, and declaring that the act complained of was done, or intended to be done, under the provisions of this Act, and no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine.

Scope of Act.

XXVI. This Act shall take effect in any and every such District as the Governor in Council shall appoint by Notification published in the Official Gazette.

Short Title.

XXVII. In citing this Act in other Acts and in legal instruments, it shall be enough to use the expression, "The Madras Salt Act, 1859."

SCHEDULE A.

Regulation I of 1805.
" II of 1807.
" V of 1831.
Act XVII of 1840.
" VI of 1844. Sections 43. 44.
" VII of 1852.

SCHEDULE B.

A (or we A B and C) acknowledge myself (or ourselves) to be bound to pay to the Collector of the sum of Rupees ; (*double the amount of the duty*) but the condition of this bond is, that if I (or we) pay the sum of Rupees (*the amount of duty*) with interest at 12 per cent, from (*the date fixed for payment*) and costs of enforcing payment, then this bond shall be null and void.

Witness our hands A.
B.
C.

SCHEDULE C.

I A (or we A, B and C) acknowledge myself (or ourselves) to be bound to pay to the Collector of the sum of Rupees (*double the amount of duty remitted or returned*) but the condition of this bond is, that if I, A, do export Maunds of Salt from the Port of on or before the day of or do repay Rupees *the amount of duty remitted or returned*) with interest at 12 per cent. from (*the day of executing the bond*) then this bond shall be null and void.

Witness our hands A.
B.
C.

SCHEDULE D.

This warrant granted under the Madras Salt Act 1859 is to authorize of to levy the sum of Rupees Principal and interest and Rupees costs by seizure of the property of and if necessary by sale after ten days notice.

Signature of Collector, or Sub. &c. Collector. A B.

No. 33. ORDER THEREON, 16th May 1859, No. 664.

Ordered that the Draft Act received with the above letter together with the correspondence that has passed on the subject be forwarded to the Member of the Legislative Council for the Madras Presidency, in view to its being passed into law.

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

Proceedings of the Madras Government, Revenue Department, from 11th to 17th May 1859.

Ordered in consequence that the following letter be despatched.

No. 34. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George; to H. FORBES, Esq., Member of the Legislative Council for Madras, dated 16th May 1859, No. 665.

I am directed by the Honorable the Governor in Council to forward a draft of an "Act to levy a duty by way of excise on Salt manufactured in the Presidency of Fort St. George."

2. In a resolution dated 31st May 1858, No. 939, the Government of India directed the attention of this Government to paras. 610 to 639 of the Report of Mr. Plowden the Salt Commissioner, and desired that steps might be taken for gradually substituting the Bombay system of excise for the present system of manufacture throughout this Presidency, commencing at once with Malabar, Canara, and the Madras Collectorate. The necessary instructions were issued accordingly, and the result is contained in the accompanying communications from the Board of Revenue.

From Board of Revenue 30th July 1858, *No.* 2,898.
From do. 26th Jan. 1859, *No.* 282.
From do. 12th Feb. 1859, *No.* 528.
From do. 28th April ,, *No.* 1465.

3. In their letter of the 26th January 1859, the Board stated that the measures to be taken for the substitution of a system of excise in Salt for the monopoly in the District of Madras had been nearly settled; that the Collector of Malabar had submitted his views as to the arrangements necessary in that province, and had been authorized to permit the Ryots to prepare pans, but that further information was wanting and has been called for; and that as regards Canara having received no reply from the Collector, they were unable to submit their views on the arrangements to be adopted in a complete form. The Collector of Canara has however since discussed with the Board of Revenue certain points connected with the subject, and it is to be hoped that the observations and instructions issued in their Proceedings of the 12th February 1859 will enable him to submit at an early date, a scheme for the introduction of the excise system into the Canara District.

4. To obviate delay however the Board have submitted a draft of a legislative enactment necessary to legalize the proposed change. The provisions of the Act have received the previous consideration of this Government and were approved; and the draft now forwarded was drawn up by Mr. Mayne, the Professor of Law, and appears to Government sufficient for the purpose contemplated. I am desired therefore to request that you will take an early opportunity of bringing the subject before the Legislative Council in view to the draft being passed into Law.

Rev Dept

Fisheries Pkt 19

No 665

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H. Forbes, Esqre
Member of the Legislative Council
for Madras

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From Board of Revenue 30th July 58 No 2699
From — Do: — 2 Oct 59 No 282
From — Do: — 28 April 59 No 829

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I have &c.

Hobt St. George 16th May 1859

Copy with Letter to E.
dy 18 May 1859 N. 15.

Revenue 1859 Deptt.
Cons: 17th May.

No. 665.

To the Member of the
Legislative Council for
Madras.

Dy 16th May 1859.

From H. Forbes Coppe Member of the
Legislative Council for the Madras Presidy
Dated 27th June 1859 6. No. 1272 in Encl.

Draft Act prepared
by Mr Mayne providing
for an excise on Salt and
correspondence on the subject
forwarded to the Member of
the Legislative Council for this
Presidency in view to its being
passed into law.—

No. 34.

To Cons 1st March 59 P 37

Copy in a Letter to E.
of 18 May 1859 No 15.

552/67

No 32-33.

5 Mar 13

Revenue 1859 Dept.
By Cons 17th May
No 746.

From
The Secretary to the
Board of Revenue.
To The Secretary to
Government
Rev Depart.

Dated 28 April 1859.
Rec 29
E.I. (6 copies)
No 1465.

Submitting Draft of
an Act prepared by
Mr Mayne providing for
an Excise on Salt.

No 664. 16th May 1859.
With an order

No 664

Ordered that the Draft Act
received with the above letter together with
the correspondence that has passed on the
subject be forwarded to the Member of the
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in view to its being passed into Law.

Fort St. Geo.
16th May 1859.